

## Closed Caption Log, Council Meeting, 5/27/10

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Mayor Leffingwell: Good morning, I'm austin mayor lee leffingwell, I will begin today with the invocation by pastor rodney hargrove, church of the first born, please rise.

Let us bow our heads in prayer. Dear heavenly father, we are thankful for our lives. We are grateful for another opportunity to make a difference in this life. 22 and 6 you instructed us to pray for the peace of jerusalem, if keeping with that example we pray for the peace of austin. I pray for the peace of this great state, texas. Pray for the peace of our nation and for the peace of our world. And now, lord of heaven and earth and all that is within them, according to your instruction, you said to make supplication, prayers and intercession, giving thanks for all that are in authority that we may lead a quiet and peaceable life. Therefore I pray for our president, barack obama, his cabinet, the senate, the congress, the joint chief of staff, I lift up his entire administration to you. I pray today and lift up our governor, rick perry, I lift up mayor lee leffingwell, mayor pro tem mike martinez, city council member chris riley, councilmember randi shade, councilmember laura morrison and councilmember william spelman. Councilmember sheryl cole, i left up our city manager, marc ott and all of those that are in their administration and staff. I ask that we stand firmly on the seven pillars, humility, honesty, loyalty, bravery, integrity, inequity, morality, that these principles govern us as we live out our lives, i ray that you protect every one of them and their family members from any devastating or catastrophic catastrophe or any tragedy that would try to strike them down. Let them make sound judgments, let their decisions be tempered with their integrity. I pray that you would help us all to be an example to those that watch us. In the name of jesus I pray, amen.

Mayor Leffingwell: Please be seated. A quorum is present, so i call this meeting of the austin city council to order. ON THURSDAY, MAY 27th, , we are meeting in the city council chambers, austin city hall, 301 west second street, austin, texas. We will start with the changes and corrections to today's agenda. Item no. 9 is withdrawn. Item no. 15 is withdrawn. 14, after the words "local purchasing", correct the spelling on the word "cooperative" to the correct spelling, which would be cooperative. 24 and 25 are withdrawn. Item no. 66 is withdrawn. 76, strike the words planning commission for that recommendation and insert zoning and platting commission. 78, add the planning commission recommendation as follows: To grant townhouse and condominium residence conditional overlay, sf 6-co, combining district zoning. we will 92, which is the appeal of the site plan extension for western oaks retail center will be postponed until june 10th. But that cannot be done same for items 93 through 98. We anticipate that those items will be postponed by -- postponed until june 24th. Our time certain items this 30 and update by a comprehensive planning advisory task force and wallace roberts and todd llc and staff on imagine austin and the draft vision statement and second a briefing on the memorandum RELEASED MAY 21st, 2010, Regarding the key point solutions report dated SEPTEMBER 30th, 2009. At 12 noon, we will have our general citizens

communications. , we will take up our zoning matters. , we will conduct our public hearings and possible action on those applicable public hearings. 30, we will have live music and proclamations. The consent agenda is items 1 through 64, and I will read into the record item 27, which is appointments to our boards and commissions. There are no nominations today. There is a waiver on the board of adjustment for Clark Hammond, who is my appointing the last Friday in April deadline filing as prescribed in section 2-7-72 of the city code and establishing a new deadline of the last Friday in August. Yeah. And correction on that. That is number 50 instead of item 27, the appointments and waivers. The downtown Austin community court advisory committee, Bruce Mills who is Mayor pro tem Martinez's appointee to approve an ordinance waiving the requirement prescribed in 2-1-21-k of the city code. The following items have been pulled off the consent agenda. Items 2, 33, 47, 48 and 55 have been pulled by Councilmember Spelman. 52 will be pulled by myself for a brief comment. Similarly for item 53, pulled by Councilmember Le. 6 is pulled off consent as related to an executive session discussion, so we will hear that item after executive session. Items number 4 and 34 have been pulled off the consent agenda due to speakers. Understand, we now have number 8 also pulled off the consent agenda due to speakers. Council that is the consent agenda, I will entertain a motion to approve. Mayor pro tem Martinez moves approval.

I will second, Mayor, I will like to read the items pulled again. That went quickly I was a little surprised by a couple of them.

Okay. Seconded by Councilmember Spelman. And I will read the items pulled off the consent again. By Councilmember Spelman, 2, 33, 47, 48, and 55. 52 By myself. 53 By Councilmember Cole, 56 to be heard after executive session. And items 4, 8 and 34 pulled due to speakers. Does that meet with your -- okay. We have a motion and a second on the table. All in favor, say aye.

Mayor, Mayor, Mayor?

Any opposed?

Mayor. Mayor.

Councilmember Morrison?

I would like to be shown as voting no on items number 10 and 30. >

Spelman: Mayor, I would also like to be shown as voting no on items 10 and 30.

Riley: Mayor, I would also like to be shown as voting no on items 10 and 30.

Councilmembers Morrison, Spelman and Riley will be shown voting no on items 10 and 30. So other than that the consent agenda passes on a unanimous vote. Council, we will take up these items in order unless there's any objection, item no. 4. Pulled for citizens wanting to speak, the first speaker is Lenae [indiscernible] before we go to item 4, we do have one speaker just signed up on item 49. Bill Bunch, item no. 30?

[Indiscernible]

that's correct, do you still want to speak?

[Inaudible - no mic] excuse me, bill bunch with save our springs alliance, perhaps this is a new procedure to vote and then take public comment.

Mayor Leffingwell: Mr. Bunch, there's always the option to reconsider if you persuade us otherwise.

Okay. Thank you, is this on 30 or 10 and 30.

We will consider your comments on both of those items.

Okay. Thank you.

You can address them together or separately.

Both of these have to deal with building water treatment plant 4, which you all have split 4-3 in favor of moving forward on. The new information continues to roll in. I have to keep asking is when is there going to be an alarm bell loud enough to challenge you to step back and actually think about what you are doing. And to actually do things in a proper order. Of studying -- studying your options, studying the environmental impacts. And knowing what those are before continuing to throw millions of dollars at a project that is both a financial and environmental fiasco, in my professional opinion. Your -- you are being asked to spend another \$135,000 on attorneys' fees to get a federal permit that there was never any discussion, you know, last fall when you all were talking about doing this project that you even needed that permit. Now you need a permit, you need federal environment, nepa, environmental studies which require you to examine alternatives and which actually prohibit you from continuing to construct the project, scrape and destroy incredibly vulnerable, irreplaceable and precious karst habitat. In the middle of what is recognized as a globally significant biodiversity hot spot. This stuff should have been disclosed in part of the discussion last fall when you started down this road. As it emerges, it really should cause you to pause. It was reported yesterday, your water revenues, are expected to be 43 million-dollars below projections for this year alone. That should wake you up and at least tell you there's no hurry. There's absolutely no rush. And there's not the money to 2 billion project that's counting projected financing costs, at a time when we don't need the treatment capacity and your rate payers and your tax payers are hurting. You need to slow down. You need to follow the law. You need to protect a treasure that we have been working 20 years to protect. The bull creek preserve and the karst habitat on the jollyville plateau. Thank you.

Mayor Leffingwell: Thank you. 49 has one speaker, deann johnson. Dy anne johnson is not here. Okay, all right. So now we will go back to item no. 4.

Thank you, good morning, councilmembers, I'm with the national multiple sclerosis society of texas. Ms, for those of you who may not know is a chronic often disabling disease that affects over 20,000 texans. I

am here this morning because I have been working for many months now with the austin energy staff and other consumer groups and we're really excited to bring some proposed ordinance changes to you this morning. I wanted to acknowledge the efforts of the austin energy staff and the consumer groups, we've had months of collaboration and work on this project to try to bring better protections to the citizens of austin. With the exception of some last minute concern that's have come up over the last 24 to 48 hours. This proposed ordinance provides an excellent foundation for protecting medically vulnerable customers in austin. My understanding that is the internal procedures and policies at austin energy will be far more detailed and address the implementation of this ordinance. We've talked a lot about those details in meetings. And I'm here because i believe time is of the essence in this case. Summer is here, it's gotten really hot already. We need to pass the protection as the summer arises. I think there is a consensus among the consumer groups and the austin energy staff about the intent of this ordinance. I think there are some small final detail that's we need to work out. But I think we're pretty much there. I think we're ready to move forward with this ordinance. And I think as long as we are careful to make sure that the agreements we have already reached with the group are addressed by this language we're good to go. Thank you, I think this is a huge step forward as a group and for the citizens of austin to be protected. I think in partnership with the city council we can wrap this up in a way that is meaningful and effective for everybody involved. So thank you.

Mayor Leffingwell: Thank you. Next speaker is I believe lynnette cooper signed up neutral. Pass your papers to the clerk. That's good.

Good morning, my name is lynetta cooper, I'm here today on behalf of the gray panthers of austin, also texas rate payers to conserve energy or as we affectionately refer to it as texas rose. We think the staff worked long and hard with us. Unfortunately we did not get the ordinance until the very last moment. As an attorney, you know, we look at ordinance and we want to make sure that the ordinance clearly reflects what you intend because that is the purpose of an ordinance, that's what the courts will look at. The courts will look at the plain language of the ordinance. So we still have some concerns, however, we want to applaud the legal staff for working with us to get rid of several technical issues that we identified on the ordinance. The memo that I passed out does identify some of those technical issues. We also and the to specifically thank councilmember morrison's office and particularly barbara rush for working so hard and to actually bringing the legal staff with us on our number 23, before this came before y'all. But although we've got most of the technical issues of the ordinance cleaned out and some clarity, there still remains one part of the ordinance that is n clear and is not vague. And is vague and really raises an issue that the gray panthers came to the table to try to address, that is the definition of serious illness. We wanted a definition that would include people who are coming home from the hospital from a serious heart operation or people who are having to deal with progressive cancer, chemotherapy for cancer, we do not think that the current definition of serious illness asset out in the ordinance allows that. In fact, we are particularly concerned about the qualifying clause of long duration or frequent recurrence. We don't know what that means. It's very vague. It's very ambiguous. When that definition first arose, it arose as a substitute for what is now called the chronic condition. So we do not think that the current definition encompasses temporary disabilities. However, if you look later on in the ordinance, there's an apparent conflict in the language. Because they take this category, who -- who by definition is going to be a long duration and make them come in and reapply every two months. So here we have a seriously ill person of

long duration, having to take time and resources and maybe fall through the cracks to reapply every two months, when the other two categories apply up to a year. Now, other thing that I've handed out to y'all is a draft from the proposed rule for public consideration. I have underlined the language that they are using. That language is certainly clearer. We like the language that we recommended in our memo. At the very least, drop that qualifying language. That's our primary concern, we can work with the other things [buzzer sounding] my time is up, I will be more than happy to try to answer any questions.

Mayor Leffingwell: Thank you. Those are all of the speakers that we have signed up on item 4. I will entertain a motion, councilmember morrison?

Morrison: Thank you, i want to echo the thanks to the folks that came and have been w barb and my office and the legal department for working through this so quickly and efficiently and paying attention to the issues that folks have raised because it is critical that we get it into place now. I understand that there's still more discussions potentially to be had. What I would like to suggest is that we go ahead and continue that discussion perhaps under the public health and human services committee to see if we can work out any other adjustments. But at this point I would like to move approval of this ordinance.

Mayor Leffingwell: Councilmember morrison moves approval. There is a second? Seconded by councilmember spelman. Any discussion? All in favor say aye.

Aye.

Any opposed say no. Passes on a vote of 7-0. Council, if there's no objection, we will go ahead and pick up these additional two items that are pulled for speakers only. And go next to item no. 8. 8 the speaker is bill bunch. You have three minutes.

Thank you, mayor. Bill bunch with save our springs alliance. The city has had a long standing policy to not extend centralized utility services into the barton springs watershed that's outside our currently served area. As a way to encourage development over in the desired development zone and discourage high intensity, more commercial development in the barton springs watershed. That policy grew out of a citizen's task force that looked at the issue very -- in considerable detail. This is relatively small potatoes development. I don't nt to paint it as a huge threat to the watershed and springs. But I haven't seen anything suggesting why the policy should be changed for this project and if there is some exception it would be nice to understand what it is. Or if this represents a policy change for the city. .. appreciate your consideration, thank you.

Mayor Leffing William faust also signed up in favor if there are questions. Did you want to speak? Oh, you've got a question. Okay. Well, you are signed up if there are questions from us, so you don't need to speak unless you want to.

Unless council has a question for me, I'm ready to answer it.

Mayor Leffingwell: Okay. Council, I will entertain a motion on item no. 8.

Spelman: Mayor, is mr. Faust the owner of the property in question.

That is a question, mr. Faust.

Spelman: I do have a question for you, mr. faust.

Yes, sir.

Are you --

I represent the owner.

Spelman: You represent the owner?

Yes, sir.

Spelman: This is the store formerly known as bubba's country store?

We have an approved site plan with on site sewer available right now. It's ready to go. Ready to start work. We decided because of the applicants that we've had to be part -- part of the little shopping area that we've got, we wanted to send everything through solid waste to make sure that there wasn't anything going into the septic system that was harmful. So -- so as you know we're out there in those rocks and septic systems have a tendency to just hit the rock and run. We didn't want to foul anything. We would rather go to centralized sewer. If anybody has any problems, we send it through solid waste, 100%, we don't have a problem. We're spending more money to go to solid waste than to build the existing approved septic system.

Spelman: Let me understand it. What are you going to be doing then with your fluid waste?

Sir.

Spelman: What are you proposing exactly to do with your wastewater?

Our wastewater right now is approved to go into a septic on site system. We are asking you to allow us to take it to centralized sewer which is a thousand feet away.

Spelman: Right. Okay. So you are trying to hook up to our sewer system. There's a current structure on that -- on this lot, is there not?

Yes, sir.

Are you going to demolish it and replace it with something else, is that the plan?

No, there's no structure on the site now at all. There is an approved site plan ready to start.

Spelman: I see.

We can start this afternoon on work with an on site disposal system.

Spelman: Okay. Does your currently approved site plan have a septic system in it?

Yes, sir.

Spelman: Okay. So would you need -- you would probably need to go back and come up with a new site plan to tie into the sewer system, wouldn't you?

We would submit an amendment to the site plan to remove the existing on site sewer and approve -- go with the approved approach main.

Spelman: Got you. Okay. Mayor, I have a question of the wastewater -- thank you, mr. faust. I have a question of our wastewater staff, if i could.

Mayor Leffingwell: Staff.

Good morning, dave

[indiscernible], austin water utility.

Have you taken a look at mr. faust's site plan?

That's correct.

Spelman: Okay. How big of a line is necessary only to serve his site plan as his proposal and nothing else?

Currently what's proposed are minimum 8-inch line, that would be a thousand feet to connect the facility. To our existing wastewater system.

How many living unit equivalent can hook on to an 8-inch line.

For this particular one, I don't have a range, but it's between 10 to 70 oues.

Okay.

Spelman: Okay. So it's an oversized line for purposes of what he's talking about here; is that correct.

That is correct, but again we try to go with our minimum sized line when we do put in any infrastructure in.

Okay. How many lue's is he shopping center going to require?

I believe it's 14.

So that means we could have another 56 lue's hooking off an eight inch line.

That's correct, they would have to go through the process as well of tying into that line. This item was taken to the environmental board with their recommendation and approval as well.

Okay. IS the McMeans store ?

It's in our two mile e.t.j.

Our two mile e.t.j. What kind of land use have we got for further proposals to our tie-in system.

Again, they would have to come back in for any council approval to tie into any system.

We send out an eight inch line, it's oversized, we could accept 56 more lue's but the council would have to approve that?

That is correct.

Thank you, sir.

Councilmember riley.

Riley: One more question for staff. Would approval of this item represent a shift in the city's policy with respect to the [indiscernible] requests in the drinking water protection zone.

No, sir. As a matter of fact we come to council for couple approval to provide any service in the drinking water protection zone.

Riley: So there's no policy against that? They routinely go before the environmental board?

That's correct.

Riley: Okay.

Mayor Leffingwell: Motions, council?

Spelman: Mayor, I move to deny the request.

Mayor Leffingwell: Councilmember spelman moves to deny the request. Is there a second? Seconded by councilmember morrison. Any further discussion?



Mayor Leffingwell: Let me say that I intend to vote against this motion because the fact that it was brought forward this particular project will be served by a waste -- by a septic system, if it is not served by wastewater. The -- the infrastructure is basically already there. Just need to tie into it. I think a septic system, especially in that part of the drinking water protection zone are very problematic and certainly more dangerous to the environment than extending wastewater services. So I will vote no. Any further discussion? Councilmember Riley.

Riley: I will add that I -- that I do have concerns about extending the request, but out of respect for the recommendations for the environmental board and water and wastewater commission, I will join you in opposing the motion.

Mayor Leffingwell: Any further discussion?

McCracken: I would like to --

Martinez:.

I would like to make a substitute motion to approve the item.

Mayor Leffingwell: Substitute motion to approve the item. Is there a second?

Cole: Second.

Mayor Leffingwell: Seconded by councilmember Cole. Any discussion on either the substitute or the main motion? So we will vote first on the substitute motion, all in favor of the substitute motion, which is to approve the request, say aye.

Aye.

All opposed say no.

No.

I believe that passes on a vote of 5-2 with councilmember Spelman and Moon voting no. Without objection, council, another item pulled solely due to speakers is item no. 34, We have three speakers signed up. The first speaker is Debbie Russell. Debbie Russell. I thought for a minute you weren't here.

[Laughter].

That would be a surprise.

You have three minutes, Debbie.

All I wanted to say on this item is that we really need video cameras in that room, both the chief and the sheriff said they welcome it. The chief has said that he welcomes it in the buses but hasn't put it there yet because we have not put anything in writing. As we know it's very important to get things down in writing first. Before passing items and before letting others decide whether or not -- how we define our policies in this city. So please make sure to add in cameras in this room, thank you.

Thank you, show russell signed up as being neutral on that item. Next speaker is john bush. John bush signed up against.

Good morning, how are you all today?

Mayor Leffingwell: I'm good.

I don't really have much prepared. I just wanted to express my disappointment again in what happened with this particular item. I remember the original resolution to prevent police officers from ever being trained to do blood draws within the city of austin. I'm not sure if you are familiar, but they do police blood withdrawals in houston, he recently refused because he was afraid of needles. About nine police officers came and held him down, forcefully took his blood, later got thrown out. I understand that you all have expressed it's going to be off the table. But we were very disappointed with the city attorney's opinion. He took a law that stated peace officers shall use all lawful means in order to fulfill their duties and he interpreted that to mean that the city of austin and even chief acevedo himself could not prevent police officers from ever doing anything as long as that activity is not expressly illegal in the texas transportation code. I think his interpretation was entirely bogus and that basically puts -- ties your hands and the chief of police's hands according to the city attorney's particular interpretation of that particular law. If chief acevedo -- expressly legal in the state code he is in fact breaking that particular law. Now that david smith is not around anymore hopefully we can visit that. Travis county party, libertarian, republican, green, democratic party, say they are against police officers ever being trained to do blood withdrawals. Word of the county is not enough. We would still like to see something written into the city charter or a resolution expressing that police officers will never be trying to do blood withdrawals within the city of austin. Thank you.

[ Applause ]

Mayor Leffingwell: Next is trevor goodchild. Signed up against. Trevor in the chamber? Not in the chamber, so those are all of the speakers that we have signed up on item no. 34. Councilmember shade?

Shade: I have a question.

[Indiscernible] I was going to ask -- I'm just curious about the comment that debbie russell made about the camera, since people do seem to want to have cameras, why can't we do that or can we amend this to include cameras.

Good morning, mayor, councilmembers, al alvis the chief of the bureau. As far as the camera situation we're not against that. Again, what we're proposing today is a council action on putting a phlebotomist in the travis county jail. That's something that we would have to work out with the jail since it is their facility. But in principle we are certainly not against it.

So I'm certainly not against it. In fact I'm in favor of it. I guess I'm kind of curious what would the next step be then to get that conversation to occur? As well as with the -- with the buses and I think it's also important to clarify that these are phlebotomists who are trained not police officers who are doing it.

That is correct, councilmembers, these are going to be certified trained phlebotomist, we are not using police officers, that is the purpose of this proposal is to use somebody trained expressly for that purpose. The next step would simply be a dialogue on the travis county side with the county. Again, their facility would have to work through them. Then as far as our

[indiscernible] would be done in house.

So let's -- chief -- chief acevedo do you have anything to add about cameras on the buses then? If we need to do something to make that happen, I don't know if it's a financial issue.

Good morning, councilmember, that discussion started when we were talking about the need to train police officers. As you recall at that time what was occurring was some of the hospitals were starting to refuse to participate because we are tying up their precious resources and since that time they started to charge more to each blood draw. So the discussion started about we need to find a mechanism by which to obtain the evidence. The other piece that had occurred is that the travis county sheriff's department had decided to get out of the blood draw business for us. Only from themselves, because they didn't want their nurses tied up in court when they had to go to court. So consequently what this does now is we have come back full circle to bring the department and the city back to where we were at in the first place, which is having non-police officers and having civilian personnel trained phlebotomist draw the blood at the jail. We have the space for the phlebotomists and as far as having camera there, I am certain that the jail has cameras inside that facility already. I can't speak for sheriff hamilton. But we would be more than happy to share your concerns if that's the will of the body and to recommend to them that they do put a camera there and we can make it part of our renegotiation as we renegotiate the interlocal agreement for the jail space next year for the jail services we would be more than happy to include that in the agreement.

Mayor Leffingwell: I have a quick question for you or for staff. The conversation seems to be focused on -- on no refusal weekends. But actually what we're talking about here, there are a number of circumstances under which you are required to draw blood. Could you quickly recapitulate those for you?

-- For us?

The legislature changed the law last year. There are now actually specific instances where we are required to draw blood, actually authorized to draw blood without a warrant. Those include an injury,

crash or where someone is injured or transported to a hospital, includes a repeat offender, also includes i believe when anybody is actually transported to the hospital. Do you have that on there? Did I miss one?

When a child is in the vehicle, when the driver is arrested for dwi.

So the legislature actually changed the law last session where we now are authorized and required to -- to draw blood, which it's not a forced blood draw. It's called a non--- a non-consensual blood draw.

Okay. So if -- that -- the question of whether or not to do it is not a question. It's required in certain circumstances.

Yes, it is. Required.

So you -- do you have a thumbnail sketch of what the cost savings would be by doing this with professional phlebotomists in the courthouse as opposed to taking them to the hospital which would be the other alternative?

Yes, mayor. If we used -- just to give you an idea we did 450 blood draws last year, of course most of that was prior to the change in law on SEPTEMBER 1st. We anticipate because of the mandatory laws now in effect, we would have substantially more. If we use a very conservative number of 500 blood draws in a year, using the \$75 blood draw cost and the \$350 medical screen at the -- that the hospitals utilize, the cost for a year would be \$175,000. For that 500 blood draws. And we anticipate again estimating using some of the costs that we've seen in our contract phlebotomist service during our no refusal periods, we estimate we can do it for around \$61,000 annually.

Mayor Leffingwell: Thank you.

May I add again we are committed to going to travis county and actually putting a camera in there. I want to just remind the mayor and council we are not using police officers and we are also committed and we would be more than happy to put one in our bus. Because I think that protects everybody. Lastly, everybody keeps asking about the no refusal weekend, mayor, since you brought it up. Why don't we do no refusals every day. What we are trying to do is save lives and get people to make -- get people to make better choices. The reason we are only going to keep those initiatives on specified weekends is we want to have that conversation with the media and all of that publicity on those weekends and hopefully it will get people to make better choices instead of doing them every day.

Mayor pro tem?

Martinez: Thanks, mayor. I want to thank the chief and everyone for working on this and making the statements that you have. I think we are all headed down path and direction that we feel comfortable with, having trained phlebotomists, agreeing to put some additional

[indiscernible] in there. I also want to thank our public safety commissioners who are here this morning for

their work on behalf of these agenda items today. Also want to wish the mayor of south austin a belated happy birthday. I think he turned 29 on sunday, saldana. But with that, mayor, I want to move approval of this item.

Mayor Leffingwell: Mayor pro tem moves approval. Is there a second? Seconded by councilmember spelman. Further discussion? All in favor say aye.

Aye.

Aye.

Any opposed say no.

Passes on a vote of 7-0. Thank you. Council, if there's no objection I expect items 52 and 53 to be very quick. We could go to those before we take up -- all that's remaining really are councilmember spelman's items. Which is considerable.

[Laughter] 52 not because I have any questions about it. I'm a sponsor, but just because I wanted to say a quick words about it. This is the resolution giving the honorary street to willie nelson boulevard. Everybody knows who willie nelson is, I don't have to go over any of that. I talked with him several weeks ago to share this idea with him. His response, comment back to me was as you might imagine, he's a laid back guy, he says that sounds pretty good.

[Laughter] so I hope when the council votes today they will agree that the idea is also pretty good. I would also add that the postal service has informed us that even though it's only an honorary street name addition, the official name of the street will still be second street. postal -- the postal service will deliver mail addressed to addresses on willie nelson boulevard. And I would like to suggest informally, not request, but suggest informally that in normal events, in attrition, we begin to add that honorary street name to business cards and other letter heads and other papers that contain the city's address. To add that honorary name of willie nelson boulevard. And with that, I will turn the gavel over to the mayor pro tem for the purpose of making a motion, if he will recognize me.

Martinez: Mayor, i recognize you [laughter]

Mayor Leffingwell: I move approval of item no. 52.

Martinez: The mayor moves approval. A second from councilmember morrison. Any other discussion? All those in favor please say aye.

Aye.

Opposed? Motion carries unanimously, congratulations, mayor.

Thank you. 53, which is pulled by councilmember cole for restatement. -- For a brief statement.

Cole: I wanted to make clear this is an item that I'm going to withdraw. It's dealing with the bond elections that we are contemplating having. We are withdrawing to simply get more input from councilmembers and staff for various scenarios and options from the city manager's office and of course the financial department. So that we will be able to make an informed decision when we go out and actually address the -- the mayor's vision for not only transportation but for all of the city needs, including affordable housing, parks, libraries and all of the other things that y'all have been calling and worrying about. If anybody is concerned, they simply need to know that the mayor and I are going to bring this back with everyone's input and if we can't come to a rational conclusion, we will simply arm wrestle and nancy williams will make the call.

Mayor Leffingwell: Arm wrestle or leg wrestle, your choice [laughter] we have -- I have committed to councilmember cole and other members of the council, we're going to work together to come up with a revised resolution in the future, in the near future, that addresses the concerns of everyone and also -- is not in conflict with the existing resolutions that have already been passed by the council. So -- so councilmember, is it your request to withdraw 53.

Cole: Yes, mayor.

Mayor Leffingwell: Councilmember cole wishes to 53, any objection.

Shade: I don't have any objection, but I'm curious could we raise money by putting together a betting pool on the results of the leg wrestling, arm wrestling? Not in the chambers.

Mayor Leffingwell: Yeah, we could do it right here in the chambers. Without objection, item no. 53 is withdrawn. We do have two morning briefings. What do you anticipate, councilmember spelman, do you have -- some of these that are quick? That we could address? What's your preference?

Spelman: 2 is pretty quick. I believe we have speakers on 33. 55 I have a couple of technical -- three technical amendments. And 47, 48, I have a -- i have an hour and a half powerpoint presentation.

[Laughter]

oh, no!

Spelman: Not.

Mayor Leffingwell: Let's go to item no. 2. 2 we can do quickly.

Mayor Leffingwell: 2, councilmember. Seriously. We're addressing item no. 2.

I'm karl [indiscernible] vice-president of energy distributing services do you have questions?

Yeah, carol. We are taking -- karl, we are taking \$10 million for publicly assessed clean energy financing, am i right?

Among other things. In fact what it is is 10 million-dollars for us to create a menu of financing options with which we can provide loans to allow customers, both residential and commercial, to do deep dive energy efficiency retrofits and integrated renewable energy systems installations. One tool, one approach is the pace approach, which we investigated under your initiative with the -- with the resolution that the mayor introduced on -- on project energize and which may need a little bit more work in the legislature and in the texas state attorney general's office to implement, but not going to stop us from looking at other options as well.

Spelman: Do we have a clear plan at this point for spending that \$10 million?

Yes, as fast as possible. We're going -- what we're going to do is probably get a lot of that money committed in relatively short order. The project plan calls on us to use about half of that money to -- to provide loan security, loan enhancement, loan guarantee type of funding for the various instrument that's we're going to design. We're going to then start working on designing various kinds of financial products with the help of the department of energy's technical assistance teams. We're talking with them on tuesday to start outlining some of those products to move forward on -- with consultants and others to help us put those products together. If we're -- if everything goes smoothly, we could probably start offering some kind of loans and I can't be very specific because we have got to figure out what segment of the customer population we're going to try to serve and all of that. But we could be up in as little as six month was loan offerings, like I said because the ag's office and the legislature may be involved, that could take longer.

Spelman: Okay. Ten million, you are saying half of this is for loans, what's the other half.

I'm sorry, I should be very clear. None of this money is for the loans. The idea is that this is a leverage grant from the department of energy. They are giving us \$10 million to set up and execute the program and it's going to leverage at least five times that much activity in the private sector or eventually maybe even in the public debt sector. We'll use about half of that money to provide a pool, a sort of a surety pool, a guarantee pool, to make sure those loans can get the most attractive interest rates possible, especially in the private sector. But we won't specifically be loaning any of the \$10 million.

Spelman: Okay. Half a million is for a suretity pool, what's the other half of it for?

Administration of various kinds. I mean, we have got to get lawyers to write up contracts, we have to get consultants to design products, we have to get financial analysts, we have to get marketing materials, we have to do the in-house type of activities so that we can track applications, qualify applicants, figure out

which energy efficiency measures are included, figure out the amortization schedules for those, all of those kinds of details to create these packages of retrofit programs.

We are able to leverage about five times private money for every dollar --

I would say five to 10. My conservative number is five. Our original proposal estimated when we were asking for \$20 million from doe we thought that we could hit about 7,000 homes with that. About 8 to 1 leverage ratio. Doe came in with less money than asked for, but they are providing additional services. The good news is san antonio also got money, we are going to cooperate that's item no. 3 On the agenda. We are going to try to make 10 go as far as 20, it would mean thousands of homes.

Spelman: Thousands of home would get a retrofit for both alternative --

solar is more problematic, bigger crunch of money. If all of did was solar it's a lot less than targeted packages of energy retrofits. In the end the packages are going to create blend of those. We want to integrate solar, but our first priority and our doe guidance is first priority is the energy efficiency retrofits. Again that we require energy efficiency as a precursor to the solar rebates anyway, that's perfectly fine with us. The flow is right. The original design is deep dive energy efficiency retrofits and integrated renewable energy self generation.

For example, if you take a house and put a solar panel on but haven't done the basic energy conservation stuff, we would be encouraging them and providing them with access to private financing to do the conservation stuff first, only after they have done the cheap, easy conservation stuff would we be helping them to find the private money necessary to put the solar panels on.

Exactly, that's the best way to save money on the cost of the solar system, too. Since it is our least cost resource in austin, it makes sense to buy that first to reduce the cost of the solar system that you would need to serve the residents.

Thanks, karl, appreciate it.

Move approval on item no. 2.

Motion to approve by councilmember spelman. Seconded by councilmember morrison. Any discussion? All in favor say aye.

Aye.

Opposed say no. Passes on a vote of 7-0.



Thank you again for your support.

Mayor Leffingwell: Council, two morning briefings, I would -- my guess is it will take up the rest of the hour remaining before citizens, so if there's no objection, we will go to -- we will go to our first morning briefing. An update by the council advisory planning task force.

Good morning, mr. Guernsey, good morning, my name is greg guernsey, your director of the planning and development review department. I'm accompanied by my staff today, judge cooper and i think mark schnog is also here from the citizens advisory task force. And david rouse our consultant with wallace todd. Before we get going, I would like to really make sure that everyone understands this is a team effort. Staff task force members that you have appointed, consultants, working with the county, certainly most important our public. Today I would like to update you on a few things, we're going to talk about the community's participation in this process. The work products that we have completed to date. And what our next steps would be. The presentation today reflects two tracks about our comprehensive plan. The community engagement which is very important in our communities. And the resource and analysis that supports that. So far, we have completed phase 1, which was the kickoff that was actually completed last october. Right now we are in the middle of phase 2, which is our vision and framework, which is now in process that will hopefully finish up in december. And visions or those key directions that come out for change we will bring back to you for your endorsement. Phase 3, details how we will accomplish our vision. We been working with the city council, comprehensive planning and transportation committee, we have been meeting monthly with them on making sure that they are up to date. The last time I think that we have met with all of you back when we did the community forum series number 1. We have asked the public three questions, what's austin's strengths, its challenges and the things that we need to improve by 2039. At this point I will introduce judge cooper the chair of our 37 member citizens advisory task force, that does include the county as part of our representation. I will turn it over to judge cooper.

Following the november meetings, the task force identified several gaps in numbers and demographic information that we thought it was important to address. And subcommittees were formed to help on a big push for community engagement to increase participation using the online surveys and meetings in a box which was accomplished. That was the first real task for joint action between the city, staff, consultants and the task force members working together and that resulted in a big push to reach large number of folks and was very successful. More than 5,000 participants were reached in the first round. You have those statistics on the slide. We got a great deal of input with many different themes, two great themes were I am proud of transportation and retaining austin's character, particularly relating to the arts, culture and music. That was thought to be very, very important and something that we want to address. Working with the public input that we gather through february, we brainstormed putting these together several major themes for austin's vision for the next 30 years. We worked in all groups as a task force, digesting this information and everyone enjoyed that activity and it was a good proactive meeting that result understand some major components of a vision statement, the staffing consultants took those ideas and created an initial pass at the creation of our vision statement component, which went to the public in community forum series number 2. Garner?

Good morning, mayor, members of the council, garner stoles. In addition to -- to the innaught the judge mentioned, the process also involved completing a statistically valid survey, which brought in an additional 1200 responses from residents of both austin and our extra territorial jurisdiction. The complete results or a summary of the complete results are included in our -- in your packets which we handed out. An example of a question that was asked, which is -- which areas you would most support growth in development occurring, you can see the public took a balanced approach, near public transportation stations centers outside of downtown along roadway corridors, in some urban areas, but certainly reflects strong support for tying development to transit. As you will recall, the public input process is organized around four community forums series. The -- the second of -- of those series occurred in -- in late april, last week in april. Leading up to that second community forum series, we tried something new. Teams of staff members, task force members and volunteers, went out to locations where people were already gathering in austin and told them about the planning process and invited their participation and specifically invited them to come to the following community forum series meetings. We contacted over a thousand people at over 40 locations. The community forum series number 2 activities were centered around two objectives. One was to challenge the public to anticipate additional population and employment growth by allocating a hypothetical 750,000 people and 300,000 jobs in a large map of austin and our extra territorial planning jurisdictions. These chips came in the form of regional mixed use centers, such as downtown, town centers, which were also mixed use centers, a little smaller scale, as well as neighborhood mixed use centers, mixed use transit corridors, and as well as traditional planning concepts such as commercial areas, industrial areas, and high density residential areas. Over -- over 29 tables completed this exercise in the first round. And it's still ongoing. People are still asking to do this exercise, actually we're -- we're facilitating a session this afternoon. And we anticipate over 60 tables of -- of austin citizens completing this exercise which will be a very important input to the development of a plan. Also, the community forum series allowed the citizens to weigh in on components of a draft vision statement and as you can see, we -- we asked them to -- with each bullet item, we asked them to strongly agree, somewhat agree, somewhat disagree, strongly disagree. And generally, they agreed. They were between somewhat -- the average scores were all between extra agree and strongly agree. If you look at this slide and you see the 1 on a scale of 1 to 4 and the 8 to those questions. As we did following the first community forum series, we are continuing to ask -- give the public opportunities to deal with the issues that are relevant to where we are in the process right now. And they can do that in two ways. They can request a meeting a box, or they can get a hard line survey or they can go online and fill out the survey and that will continue for this phase of the process until JUNE THE 30th. With that, I would like to -- I would like to introduce again david rouse with wallace, roberts and todd.

Thank you, garner, I'm with wrt, it's easy to remember and we are the lead consultant and I'm principal and project manager for wrt on this project. Greg mentioned starting off that there are two tracts that are kind of going parallel to date. Garner summarized the community engagement. I'm going to talk a little bit, just to give you a flavor of the substantive background report being done. There's been a lot of work looking at data, analyzing it to support really the community engagement process, so informed decisions can be made. Next. So this is an example. One thing that was done fairly early on is primarily by staff is -- is what was called a community inventory or data book was compiled. And this is just one example. This is looking at medium family income in the community from 2000 to 2007. What we see it's been relatively flat and even declining, there's a decline among certain segments of the population. So family incomes

have not been keeping up. This is obviously a concern. This is a -- a piece of data, but if you look at the next slide -- if you look at the next slide, this now compares the family income with the -- with the price of housing, so this is an example of the strategic issues report that's been developed. The purpose of this report is to look at the data, the facts, think about well, what does that mean for the city's future and for planning the comprehensive plan for the strategy for the community engagement. You see -- comprehensive plan. This example you see the median has been rising while family incomes have been declining. Obviously this is an issue of concern that needs to be addressed in the comprehensive plan. The next slide is -- highlights work that was done on what we call the susceptibility to change analysis. I'm going to give you a flavor of this. But basically what this analysis is meant to do is assess as objectively as possible what areas of the city are likely to change in terms of land use, or development over the next 30 years. The time frame of the plan. It's -- it was done based on the GIS analysis of 11 factors. These areas then become areas well we ought to take a closer look at as we plan the future of the city. The next slide will show you putting all of those factors together, this is the pattern that emerges. What you see is without getting into the details, sort of blueish or purpleish colors are the areas that are most likely to change, kind of popped out the most things that are happening are likely to promote change in the future. You can see just broadly there's a swath really right through the center of the city from north to south where much of this land is concentrated. The green are the areas that are least likely to change. Sort of yellow color are the areas that are sort of in between.

David, if I might add, GIS is planner speak for geographic information systems. The point here is this is very much a data driven analysis to go along with the citizen input.

Thank you, Garner. More data driven analysis, more -- a computer model for the technical model, done to assess a sustainability of land uses in the -- in the city and as you may recall, this is an overarching goal along with community engagement set for this process. This just gives you a flavor of the analysis that was done of sustainability of current land uses. So you see the green areas in this map are those areas where housing is relatively close to transit. So that's a high rating for sustainability. People live in those areas are more likely to be able to use transit. Interestingly enough, again, sort of runs north-south through the middle -- through the center of the -- of the city. Next. Now, this map, Gardner mentioned the -- the chip exercises and the scenarios that were put together with different types of land uses. And transportation patterns. This is an example of a map that just one table from these -- from these exercises produce. We got the sense that people were really enjoying and engaged in these exercises. I'm not going to try to interpret this for you other than noting one thing that's been interesting coming out of this process, a lot of the trips and where future development might occur coincides with the sustainability change analysis, sort of the areas of the south where people think there might be future development there. Our next step in this process now is to take all of these maps that have been done, look at common patterns, come up with maybe three or four representative scenarios for how Austin might grow and develop in the future based on what the citizens told us. And then take that back to the public and to everyone else to sort of assess them and evaluate them to see if they really meet the goals for the future that are set by the vision statement. And the idea is these will be assessed over the summer and developed and probably brought back to the public in September is the time frame that we are looking at right now.

Finally, if you are interest understand seeing that, as mr. Guernsey mentioned we have been briefing the comprehensive and transportation committee on a monthly basis at their last meeting them generously offered to seek to coordinate possibly a press conference with the county commissioners court to try to increase interest in the planning process. We discussed that among the staff and we -- we would like to offer for your consideration the possibility of doing that when the vision statement makes its way out of the task force through the planning commission and back to you for endorsement. We think that will occur sometime in august the -- the task force members are diligently working. They are working very hard on the vision statement. They have met about five times and they are continuing to work to refine it and -- and get it to the point where they are comfortable with it and then to send it forward. So that was brief, but with that, we're happy to -- to answer any questions that you have.

Any questions, councilmember?

Councilmember morrison?

Thank you. And thanks for everybody for coming in and giving us this briefing and all of the hard work from staff and consultants and of course the -- the -- the advisory committee of the task force I know have really jumped in and rolled up their sleeves to try and get out there in the community and -- and make sure that the engagement is effective and broad based because I think we all understand that -- unless we can touch all of the different sessionments of our communities and creating the vision and the plan, then we won't be successful. So -- so it certainly pays to put a lot of energy into that. We need to be able to do that to have confidence in the plan. I know that there were concerns about the diversity of input in the beginning, the first go round and -- and that's why the -- why the process was adjusted as you went along to ensure that we have that diversity of input and I wanted to ask -- if you -- if you have any thoughts that this might be for judge cooper or i know mark shnoga is also in the shame about her, if we -- chambers, if we have any lessons learned from how we did our outreach last time around and how we might be changing things to do improved outreach this time.

[One moment please for change in captioners]

this is probably, I would consider and certainly mark would consider one of our most important project that's we would do and maybe the next -- next 25, 30 years.

And I think a lot of us with agree with you on that.

Really sets the stage on how we grow, spend our money, how we spend our money wisely, most important this process, this part right now, is -- is how beget the vision right of where -- where we want to grow in our future. So that's why we're engaging the public, which still has until the 30th to get their surveys in for this part. Although community engagement will continue the rest of this year and into next year.

Morrison: I'm sorry, gardner, did you have a comment?

I was just going to put out that for the -- for those of you who like to see the actual numbers and bar charts, in your packets you have -- you have the bar charts that compare the participation in each one of the community forums series to the population at large. So you can look at that at your community.

Morrison: That's great, because it's clear that we need to make sure that we're broad based geographically, ethnically, income-wise, age-wise, and one question that I have, this anybody might be for the consultant. That is in terms of the statistically valid survey, do we have -- is that statistically valid with regard to the demographics? Of our city?

[One moment please for change in captioners]

to reach the 95% confidence level you need between 200 and 300 responses. So we have enough responses citywide to reach that confidence level I think for all the categories, with the total responses, for instance, homeowners or renters, disproportionate. But we have 20% renters. We can reach the 95% confidence level if you want that information by a renter or homeowner rather than by the total results.

Morrison: And have you provided that information in the backup material? That might be interesting to see the differences in vision based on different demographics.

Yes. It is statistically valid by the 1200 responses with regard to geographic representation and it's broken into five geographic areas. And with regard to race and ethnicity. The other questions we need to -- we need to get you those numbers.

Morrison: I appreciate that. I think that would be very interesting. Another very important piece of our engaging the public is the website. And we've received some comments in terms of thoughts that the website could be improved to make it more engaging and yowfl. I don't know if you've heard those or if you have any plans for the website in the future.

Certainly if there's something that we are missing, we would certainly look at that very carefully. And if we can improve, we're always willing to improve. I know we've had a considerable amount of input and we're trying to put a lot of information on there. So yes, we would certainly look at that and we'll check. Our website, we're getting input everyday, we'll see what else is on there.

Morrison: Great. That might be something to talk about with the taskforce. In regards to making sure that we have a broad base of perspective, the other issue is the different advocacy groups -- I don't want to say necessarily advocacy groups, but perspectives that are on the taskforce. And one of the concerns that I've heard raised is the issue of whether or not we really are doing an adequate job of getting the business folks large and small at the table and the development community at the table and engaged at this point in time. Can you comment on that in terms of how we're working on that and how we might be able to address the issue?

I think the development community is definitely participating very well in the exercise. We have had sessions with reca, we've had sessions with cmu. We have a session this afternoon with aia. And many of

these have representatives, professional representatives, architects, engineers from the development community, and we're really pleased to see them actively participating. What was the other sector?

Big business, for instance, large businesses.

David may want to address this to some extent. We have targeted the large employers in the austin area through the stakeholder interviews, which consultants have been offering direct opportunities for informal discussion with representatives from large employers.

That's correct. We have an ongoing process of talking with the stakeholders. And really adjusting as we go through to see are there other groups we need to reach. For example, the first time I was in town we met with some representatives of the creative community and we know that's a big issue. But it's not just talking with them. I think what's important moving forward is getting them engaged, all these different groups and perspectives. And part of the process moving forward is to actually set up -- we've called them focus groups for want of a better term, but there may be a focus group that represents some of the major employers or business folks or another focus group, for example, that might represent the creative community. And actually get them involved in starting to flesh out some of the direction and action. That's actually part of our work plan when we get to the next phase.

Also, I might thank the city large employers. You notice a big increase in surveys that were completed, including city of austin, we mailed it out to the city of austin employees. We contacted them and most of them sent the surveys to their employees and our representation improved after that. They had folks that lived all over the planning area, not just the inner city. So we got really good responses and good participation.

Morrison: Then I have one other area I want to ask about. A lot of the work going on right now is about land use and transportation which the chips and sus accept taibility to change. We're looking at a lot of those kind of parameters. And of course ns a comprehensive plan which means we're looking at housing, affordable housing, health and human services. And I wonder if we have been able to or how we intend to at the inventory stage and at the susceptibility change stage be able to address those kinds of issues and change in affordability with regard to sus accept taibility to change and -- susceptibility and also health and human services services.

That's a good question and we are addressing that. What we're looking at now is how do you evaluate different patterns of land use and transportation. We just can't use those factors. We're in the process of evaluating these to see how to bring those into the picture. The championship exercises are just one part of the overall comprehensive plan. I was going to address much more than that. And we need to integrate all those things and address them comprehensively. There are some good models and things that have been done in the region. For example, the centralized -- I believe it's called the sustainability indicators product looks at a range of indicators, a lot of what you deal with, education, housing. That's an example of a resource we're looking at and see if we can bring it in and apply it to the process.

I appreciate that because I think that's absolutely critical and I think that from the community's perspective from people that I talk to, it is about obviously the physical items, but it's about the quality of life and what it means to live here in the city of Austin. So that's going to be really important work. I appreciate that. I just want to say that in terms of the suggestion of the press conference in August. Thank you for all your work.

Cole: Mayor, I just have a few questions.

Leffingwell: Councilmember Cole.

Cole: Again, I want to thank Chairman Cooper and the entire committee for their very, very hard work and especially the increased outreach efforts. But I do have a couple of questions that were in the presentation. I'm trying to understand the scientific survey about the reflection that people really wanted to be near public transportation stations. Are they saying capital metro stations, are they saying rail stations? Because I really think that's significant in terms of our planning, knowing exactly what people mean since that was the one that was off the charts.

Near transit stations, it didn't specify beyond that.

Cole: And I noticed the next one was centers outside downtown. That's a concept of centers that we have been talking about a lot in campo from a regional approach. Do you know if they actually understood that in the same way that we talk about that at campo.

I don't know the answer to that question. I do know the public participants that came to our chip exercises certainly had a very much centered approach, centers and corridors approach to planning.

Cole: Okay. And I have one last question --

Councilmember, let me also add our transportation staff at this same meeting for these chip exercises, so as questions arose about the transit stations or nodes for those that would be located and even -- we even indicated very faintly on the maps the chip exercise where the campo nodes were as they were distributed over the region so people had that in their mind and thinking about that at the same time. But a lot of those questions as they arose during the sessions there was transportation staff available to answer those questions.

Cole: So were you coordinating with the transportation staff that are actually working on the strategic mobility plan?

We did. We actually have been going to a lot of these events, all the chip exercises we came as a team. So we used both our departments resources both in staff and setting up and even engaging the public. You couldn't see one part without seeing the other. So we had both of those plans being looked at simultaneously.

Cole: Are you saying we planning and coordinating and getting along?

Yes, I guess I am.

Cole: One last question for you, greg. When do you think you will actually be able to present us, together with the strategic -- the transportation department, any particular needs or high needs? I'm trying to remember your deadline state for the comprehensive plan. Do you remember that? When are we supposed to be done?

We need to stay -- to stay on schedule we need a draft plan ready for t adoption phase by the end of 2011.

Cole: So I guess rob is there. I'm trying to figure out if what connections will be made from the work that is going on in the comprehensive plan and the work that you're doing with the strategic mobility plan in terms of what you suggest to council in terms of transportation projects that rise to a high level of need in your analysis.

Yes, ma'am. Robert spillar, austin transportation department. And as greg indicated, we have been coordinating and will continue to coordinate over the life of both of these projects as we move forward. With regards to the strategic mobility plan and how it links with the comprehensive plan, you know, we are doing them simultaneously. We're using the same transportation consultant and often showing up to the same planning sessions and sharing information and getting the same information input. What I think you will see is as the strategic mobility plan moves forward and starts to recommend projects or priorities, that the early priorities be very consistent with serving existing gaps and existing needs that we have now. And the ones that are further out because it takes longer time to develop those projects which could have a sinner gistic use. And as you pointed out, transportation and land use decisions are cyclic kel, one informs the other. So if the early recommendations that you would receive are not sway or affect the outcome of the comprehensive plan.

Cole: I guess because the needs are so great.

Absolutely.

Cole: Thank you, gentlemen.

Mayor Leffingwell: Councilmember shade.

Shade: A question before you go, rob. When councilmember cole was asking her questioned it kind of reminded me of the question nine that was in the survey which was about if you had \$100 how would you spend it on transportation improvements? And I just wondered if that jiebz with the work that you're doing or if that seems consistent? Because basically \$58 out of the 100 were according to this group of people, was for streets and freeways versus I guess 28 for public transportation.



Right. Well, any time a question like that is asked, people tend to respond based on the transportation options they have immediately experienced. And so as you start to think about -- the response to a question like that might have been very different if you had started out by number one, all the streets are built to their maximum width that we can do now. There's minimal ability to bring in additional capacity, then what do you think? So again, when people are presented, how would you like to spend based on different modal characteristics, they're going to tend to respond based on what they have, their own experiences, and they may not understand the signals operating at full capacity or whatever.

Shade: Thank you. I had a question for the consulting team, which I'm just curious because you -- one of the things you brought to us when you were doing your initial presentation to start this effort was the experience you've had in so many other cities. So I'm just curious of the results here, what so far has surprised you the most.

That's a really good question. I haven't thought about that question. This is maybe not answering exactly -

Mayor Leffingwell: You can still think about it and come back next week if you want.

[ Laughter ]

Shade: We'll have to pay for him to come back. Don't do that.

I think actually the results here have not really surprised me that much. Maybe it's because as I go across the country and go to a lot of different communities, everyone seems to be talking about the same kind of themes. Everyone is talking about other ways of getting around, other kinds of transportation. Obviously traffic and congestion is a big issue, but people everywhere are looking for other ways to get around. People are looking for directions in terms of sustainability, the green economy. We hear similar themes everywhere. So maybe -- Austin is unique, but maybe you're a leader and you're not so unique and that's sort after direction other places are going in as well. I'm not sure that's a good answer, but that's --

Shade: It makes me wonder if those cities that would engage in this kind of a process are right already off the bat in some ways similar.

They're somewhat more progressive. On the other hand, we're hearing similar themes in, for example, rural New York state, rural Pennsylvania. So maybe there is a pro element, you're right, but I think there's direction happening in this country and things are changing now. So I do think that reflects that.

Shade: The other thing I was curious about is the -- you know, how much -- how this survey -- I had looked at it in comparison to the 2009 citizens' survey that the city does and I wondered if you all had done any comparisons on that.

Well, we have. The same consultant did the two surveys. I know Greg Garner, he looked at the comparison between the two surveys. They're fundamentally different types of sphairics, so they're asking different types of questions.

Shade: They are asking different questions, but it is interesting there are common themes in terms of what the city services can be. I think it is worth us looking at it, especially when we have to make the decisions about which resources to allocate and how. When you see, you know, water supply and clean rivers and creeks and springs, those are things that we do have more of a direct relationship with than we do, for instance, in the quality of public schools. I mean, we have a role to play there, but we don't have the direct control that we do in terms of the -- that we do with water supply, for instance.

I think last year's survey was more directed specifically to the quality of city services and people's satisfaction with what the city did. I really didn't see any conflicts between those answers and the broader questions which are appropriate for a comprehensive plan. I do think that people were a bit surprised how high education was in terms of priority because if it's a city process, what they told us education, even though I think most people recognize that that's another jurisdiction. And of course all of you know about traffic congestion. That's definitely in the statistically valid survey is the number one issue.

Shade: It definitely shows that our land use, you know, there's a direct -- people want to live closest to where they have good schools and safe parks and fire station amenities and those kinds of things. I think it's -- I wasn't expecting to find a conflict, but I think it should be instructive as -- again, I'm not on the committee, but in terms of how priorities ultimately are set because these are things that we're already doing and we should be looking at things that are the most important. Anyway, thank you very much. It's very thought provoking and I appreciate your work on this.

Mayor Leffingwell: Thank you.

Thank you, mayor.

Mayor Leffingwell: Okay. Just to try to give a little advance notice of where we're headed. We're going to try to get this other briefing in this morning and time permitting address 47, 48 and 55, which are all related, that is time permitting. 33 It's unlikely that we will get to until after citizens communication and executive session, so that will be this afternoon sometime. Right now we have a lot of folks signed up for that. An hour and 12 minutes of testimony against the item. Nine minutes in favor. If there's no objection, council, I would like to propose limiting that to 30 minutes per side. So those of you who are signed up against item 33, you're welcome over these next couple of hours to huddle and decide how you want to prioritize your speakers if you like. With that said we'll go ahead and go to the briefing, item number 99.

Good morning, mayor, mayor pro tem, ott, ladies and gentlemen. I'm Lee Crawford with the city law department. I was the principal drafter of the memorandum that was furnished to council on May the 21st concerning the cept report from last September. And on that basis the city manager had asked me to leave the -- lead the discussion of the briefing this morning on that topic. There are also others here to answer questions from council on that. We appreciate this opportunity to address the council and also the

public on the topic of the keypoint report. It is a matter that has generated a tremendous amount of interest in the community and it's pretty clear that there are some in the community who have been frustrated by the city's efforts to balance our desire for openness and transparency and the citizen review process, along with the restrictions under state law and under our meet and confer with the police union that restricts the way information is released in that type of process. And I'm hopeful that our discussion this morning will help provide some information to the community and also give the councilmembers an opportunity to ask any questions that they may have about that. What I'm going to try to do in the next few minutes is really address four questions concerning the keypoint report. The first is how and why was keypoint selected to conduct the independent review last september. Secondly, what information in the report was not released to the public right away and why were those decisions made. The third issue that I would like to touch on this morning is what is it that happened to change that made full publication of the keypoint report possible on may the 13th of this year. And then the final issue that I want to talk about is how does the release of the information from the keypoint report compare to other releases of information that the city has made on independent reports in the past. One thing I do want to say at the outset is that I'm not intending to address this morning any issues concerning the lawsuit that was filed by the family of nathaniel sanders against the city that's pending in federal court, although the keypoint report does address the same events that are the subject of that lawsuit. My comments this morning have nothing to do with the lawsuit and since it's a pending legal matter it would be inappropriate for me to say anything more than that. I do want to talk about keypoint. Turning to the first point, and that is how and why was keypoint selected for the process? I think it's important to understand that the genesis of the independent investigation process in this case came from the citizen review panel that was looking into issues of potential police officer misconduct arising out of the shooting incident on may the 11th of 2009. And on about august the 19th of last year the citizen review panel made the recommendation after looking 's internal affairs investigation file, made the recommendation to the city manager as is their prerogative under the meet and confer agreement to retain the services of an independent investigator, and that's what initiated that process. In preparation and anticipation of that action, the city of austin law department had for several weeks been gathering information on potential -- independent investigator candidates if the crp elected to go that way. We had compiled a list of, oh, approximately six or seven total investigator firms, including keypoints, and we involved what we thought were the appropriate folks within the city administration to work on the issue. The police monitor was involved in our discussions, chief acevedo was involved in the discussions, assistant chief mcdonald was involved in the discussion, later with representatives of the law department. The way it came down was we talked about it a little bit in the memo. In short, the representatives got together and -- for the initial vet of the candidates. The law department had identified and took any suggestions from anyone in that meeting on other potential candidates. On the basis of that we were -- the law department was directed to go and independent view candidates by telephone and ask them a specific series of questions that are detailed in the memorandum. One of the questions that we did ask all of the candidates that we spoke with was were they prepared to conduct an investigation within the time frame that we had for that process and also to take that investigation to a conclusion and actually make a recommendation on whether they felt there was or was not officer misconduct involved. The specific reason for that was that chief acevedo had a concern about keypoints on our list. They had helped the city with an independent report in 2007 and one of the things that happened in that 2007 report was that keypoint did a very thorough analysis, their recommendation came back in the 2007 report ains conclusive and we felt that we really wanted our

independent investigator to provide actually a conclusion for us and so that was one of the specific questions that we vetted with all of the candidates. After that vetting process we gathered back together with the folks that I named, the city manager was in a meeting at that time. We presented the results of those discussions with the candidates to the group, had some pretty robust discussions about that. At that point the manager asked the law department for a recommendation and the recommendation of the law department was that we use keypoint. There was further discussion following that and the manager took it under advisement. The meeting ended and i believe all that information that I just described was compressed into about a 48 to 72 hour time frame right after the crp had made the recommendation to retain the independent investigator. Then the law department was notified I believe on the 21st of august that the manager had made the decision to retain keypoint. I guess the point that i want to establish here is that the process that we followed was structured and that all involved constituents in the city administration had an opportunity for full and fair comments on the process and there was robust discussion. At the end of the day keypoint was selected as the vendor for the assignment. As the memorandum indicated, there were three reasons that kind of drove that. The first was that keypoint is a well recognized and established firm that has the resources and as well as background and the experience to handle a forensics investigation, consultation assignment such as this. Second was that we had an overall favorable experience using keypoint in 2007 on the incident investigation involving former sergeant michael olson. And the chief was right to point out that there was a concern at that time about the way that the -- the conclusion or lack of conclusion that keypoint had come to, but the consensus i believe was that in our process of vetting the candidates that we had resolved that issue at least satisfactorily for city management to where we felt comfortable that keypoint would not come back with an inconclusive recommendation on this report.

Mayor Leffingwell: crawford, can i interrupt you one second here to point out that we have another council in the chambers this morning, and that is the blake manor elementary student council back there in the green t-shirts.

[ Applause ] welcome. I know you're getting ready to leave. I wanted to welcome you before you did leave. Excuse the interruption, mr. crawford.

Thank you. That really walks us through the process of talking about how and why keypoint was selected. I think the next area that i wanted to cover that is probably of interest to councilmembers and the public as well is when we got the keypoint report, how and why the city went through the process of releasing some information and not releasing other information. The report itself was received on september the 30th of last year. And of course there was -- even before the city's receipt of the report and after we got it there was a high level of public interest in the report and a strong desire by a number of folks in the public to have some understanding of the content of the report. We also have to recognize that at that time we still had the administrative disciplinary process within a.p.d. that was ongoing. The citizen review panel had not at that point had an opportunity to review the report. The chief had not had his final disciplinary review hearing th the officers involved and had not had an opportunity to come to a final decision on any potential misconduct allegations against the officers involved. I will say that immediately before receiving the report and certainly once we received the report, direction to the law department from city management and also from chief acevedo was that we be in a position to publish as

much of the keypoint report as we possibly could consistent with our legal obligations under state law. That was the task that the law department was given and the task that we set upon fulfilling. What I want to talk about for a few minutes now is how do we go about doing that. But in order to make that logical and for everyone to understand it, I need to talk about two things. First I need to talk for a minute about how state civil service law affects the city's ability to look at officer misconduct and then I need to also look about how the city's meet and conf agreement with apa affects those same issues. So I'm going to say about three different things concerning state civil service law that I think are all important for everyone to understand. There are a couple of pillars of civil service law that are designed into the public policy services designed by state civil service law. The first is our state civil service laws are intended to shield employment decisions such as hiring decisions, promotion decisions and disciplinary decisions for public safety officers from the potential for political influence. And the obvious point there is you want the decisions of your public safety officers to be free of any potential political influence so that you fulfill what John Adams said during the constitutional convention that we stay a government of laws, and a government of people. The second pillar of state civil service law is the idea that there are privacy rights that public safety officers have in a disciplinary process that involves potential misconduct and there's a policy reason behind that is to protect officers from potential stigma tiesization that would result from unfounded accusations against them. The reason I raise this point for your benefit it to help you recognize that as we sort of thought through what could and couldn't be released from the keypoint report at that time were these two fundamental pillars of civil service law function as the backdrop for how we looked at everything. Second point about state civil service law is that one of the primary ways that it does protect the privacy of public safety officials who are involved in an investigation of potential officer misconduct involves the confidentiality of investigative materials that are made a part of that process. Here's the way it works. It works in two ways. First, if a police department investigates officer conduct and determines that discipline is appropriate based on that conduct, then all of the materials related to that incident are sent from the police department to the civil service commission and maintained under the custody of the civil service commission. And once they are there, they are available for release to the public under the open meetings act. Materials that go on the sustained misconduct allegations are referred to as a file materials based on the part of the city based law that creates that process. So we call those a file materials. Those are available to the public. On the other hand, though,, if the investigation of officer misconduct issues does not result in disciplinary action against the police officer, then all of the investigative materials that are maintained on that issue are kept at the police department. And those are made confidential under state law and the city is not able lawfully to produce them. And those materials that relate to what we call the unsustained charges and that go in -- they're considered g file materials. I don't even really know frankly whether there's a drawer that says g file on it, but the point is that those materials are protected from release under state law when they relate to unsustained charges against an officer. So that's a fundamental point again that so of guides our process for how we think through what can and cannot be released. And then maybe a third key point in state civil service law that I think is important for everybody to recognize is that when public safety employees are representatives by a labor organization, the law says that the city and the labor organization representing the public safety officers can enter into a written agreement and that written agreement can actually modify those provisions of state civil service laws that I just talked about as long as I say it is part of a written agreement. And that is exactly what the city and the apa have done here through creation of the citizen oversight process. And the citizen oversight process is a part of the city's and the apa's meet and confer agreement, and it is the

section of that contract that sets up this independent investigator process and has a specific section within that article on the citizen oversight process that talks about what parts of an independent investigation can be released to the public. A couple of points on that. Under our meet and confer contract, the independent investigator's report is considered the same as investigative materials that -- just as investigation materials would be compiled by a.p.d. Under its internal affairs investigation process, similarly our contract treats investigative materials and materials furnished by an independent investigator in the same way. So they take on sort of that same a file or g file sort of tenor under our contract with apa. So with all of that by way of background, as i mentioned there is a specific part of our meet and confer agreement that talks about how and what parts of an independent investigation report can be made public. And that's part of the meet and confer agreement that came into the contract in 2004. Since that time we've actually had three releases of independent investigator reports. I'll talk about those a little bit later that kind of fell within the rule of that section of the contract. And if you've had the benefit of -- had the opportunity to read it, you know that the section that talks about release of public -- public release of independent reports is complex language. It involves a general rule and then exceptions and then exceptions to exceptions, except where otherwise provided by state law. When you parse through all of that and you kind of get to the bottom line, this slide here represents sort of our best effort to give kind of a common sense way to analyze what the meet and confer agreement overlaid against the backdrop of the state civil service law says in terms of the kind of information that can be released and when information can be released from an independent report. Basically prior to the time of the memorandum of understanding on may the 13th -- I'll talk about that in a moment. We generally follow this protocol. We would look at all of the content of the independent report, we ask ourselves these questions. First, is it already in the public domain? Is it already public information. Second, is it information about matters that are not related to an ongoing investigation of officer misconduct? Because as I mentioned, state civil service law protects the confidentiality of that con going investigation process and that protection carries forward into the meet and confer dpreament. Third question is if information about an allegation of officer misconduct that has already been sustained. And recognize that at the time the city received the keypoint report on september 30th, we were still over a month out from the date in which the chief acevedo had his disciplinary review hearing and made the final determination on the pending disciplinary action. So we were still a month away from the end of that investigation process. But those were the three questions that we used to kind of frame out how and what could be relead from the report at the time that it was in early october. The way we looked at it is if the answer to any of those questns was yes, then the information could be released at that time. Now, that rule changed after the memo of understanding that I'll talk about in a minute. But first let me talk about then how we applied that process to get us to the different releases of the keypoint report that we did. That's to say we received the report first on september 30th of last year. We made the first release on october 5, five days later. I think it's important for folks to remember that the first release was a voluntary release that the city made. We had not at that point, had not received any public information act request. There was as I say a strong directive from the chief and also from the city manager's office that we release as much as we could as soon as we could and we got that out on october the 5th. Basically we combed through the entire report and we determined what was already in the public domain. I emphasize here that there was already a tremendous amount of information about the incident involving nathaniel sanders that was in the public domain at that time. You may recall that the district attorney had put a lot of information from 's investigation, criminal investigation, out on the district district attorney's website in connection with her press release on the fact that the grand

jury had no billed the officer in involvement with any criminal involvement in the issue and the local media had run a number of stories on the shooting incident since the time of the incident itself, so there's already a lot of public information out there. So we put that in the report. And also there were pieces of the report that were not part of the ongoing investigation of potential officer misconduct. You may recall there was in the report about potential investigation bias. There was also data in that report the investigator's observation that comments on training programs, etcetera, and all of that report, all that information then was released at that time. So the goal was to release as much as we could as quickly as we could and so that was the first release in october. The city made a second release from the keypoint report on the same day that the chief acevedo issued the disciplinary determination on the officer's affected and that was november 5th, about a month later. And what we did was we basically went through the same exercise, and for those parts of the report that dealt with the charges that were sustained against the officers -- remember under the state civil service rules those become a file materials under the custody of civil service commission and available to be released. We went ahead and released them at that time. Also about that time in early november the city did receive two or three different open record requests for those parts of the keypoint report that were still not released to the public because those were the parts that dealt with the unsustained allegations. And under that analysis we talked about before, those were still sort of g file material. So this is an important thing too I think for everybody to kind of understand is the legal environment that the city found itself in at that time. When the city received the request under the open ct for information that the city believes it is legally prohibited from releasing, then we are required by law under provisions of the open meetings act act to make a request of the attorney general for a ruling on our belief that we should withhold information. Of course, the policy reason behind that is you don't want the -- a municipality or an agency subject to the open meetings act law to be able to dictate what they are and aren't themselves. So there is a specific requirement that we go to the attorney general and ask for a determination on whether we are correctly understanding our obligation not to release certain information. And so about mid november of last year in response to the open meetings act request that we received for the unreleased parts of the keypoint report, we then went ahead and wrote to the attorney general, outlined the situation both under the law and we showed them the provisions in the contract, the meet and confer agreement that we had, as well as defining what parts of the keypoint report itself we felt were not -- we were not able to release to the public at that time based on the analysis that i described just a moment ago. We got a response back from the attorney general at the end of january, january the 29th, indicating that the attorney general believes that we had appropriately analyzed the question and that the materials from the keypoint report that had not been released should not be released based upon state law and based upon the language of our meet and confer agreement. So that was sort of our state of affairs until we got to may of this year and found us in a position where after a chain of events that I'm going to describe now we were able to release the entire report. What I want to talk for a couple of minutes about now is the memorandum of understanding that came up this year. In the event anybody is not familiar with how this works, memoranda of understandings are not uncommon, but they're sort of a part and parcel of the ongoing administration as most types of labor agreements, including a meet and confer agreement. It's basically a document that clarifies how the parties -- what the parties' intent is about the meaning of a part, in this case, of our meet and confer agreement. I want to emphasize here that the mad cow, the memorandum -- the mou, the memorandum of understanding, is not really an amendment to our meet and confer agreement. It's simply an understanding between apa and the city about what the intent of the parties was in drafting the language. On may 13th we entered

into an MOU on the report, which is pretty complicated language. The catalyst for that frankly was -- I think was the fact that there were some media releases. I believe it was the weekend of May the eighth. Media releases of those parts of the keypoint report that had not been released up until that time. And of course, those releases of those -- of the redacted or previously unreleased parts of the report in the public domain again created a high level of interest within the community and the content of the report. And there was some news stories that followed in the papers in the next couple of days. In one of those news stories, I believe it was on the evening of Wednesday the 12th of this month, the APA Vincent, had made some statements about sort of comparing the city's release of information and the keypoint situation here with a prior release back in 2004 that I'm going to talk about in a minute. And the -- both the manager and assistant manager McDonald looked at that, at the statements and it became clear to them that APA may not be reading the -- the language the same way that the city was and that they may have a different intent in drafting that language and putting it in the contract back in 2004 from what the city thought they had intended back in 2004. He that bases we needed to immediately get with the representatives of APA, including their legal counsel, and talk with them about the meaning of that language from the meet and confer agreement and determine if both of parties really did have the intent to be broader than we thought in terms of the type of information we could release from the report. We pulled together that meeting the same morning and we had a memorandum of understanding that basically indicated that the parties were both clear on their intent even if a literal reading of the contract language made it kind of challenging to work through to get to where we were. So we worked out a memorandum of understanding with APA on that day. Both parties signed it and we delivered it to the city manager. And based on that memorandum of understanding we were then able to release the entire keypoint report at that time. Basically the effect of the MOU did two things. It enabled us to release the entire report because it represented an agreed intent in terms of what the parties really had meant in release in drafting the language in 2004.

But it also preserved the underlying confidentiality of G file -- what would be G file confidential information about investigative materials on unsustained allegations. So basically the way it is if there is investigative information such as witness interviews or ballistic reports or drawings of charts or photos, that type of sort of fundamental evidentiary material, that remains confidential if it relates to allegations of officer misconduct that have not been sustained, that underlying material remains confidential. However, if there are references to it, even to the extent of there being quotes from it, but references to it in the independent investigator's report itself, then the parties have determined that it was everybody's intent back in 2004 when we put the language in the agreement that the report would nonetheless be fully published, but it would not impair the confidential nature of the underlying investigative information. That is how we were able to release the full keypoint report, even though the content of the report included a discussion of what would otherwise be confidential G file material. And that got us to the situation that we are in today in terms of having that full report part of the public domain. So the fourth point then -- is kind of the last point that I wanted to cover with you -- was to talk a little bit about how our release of information in the keypoint report kind of differed from how information releases have occurred in the past. And I've got a chart up here that still shows sort of integral from -- I like charts. A little bit about each of the three situations we've had since 2004 when we've had an independent investigator report. I guess the point that I want to make here is that from our perspective based on what we understood that language about release to mean prior to the time of the memo of understanding, the way that the city has handled each of those independent investigator reports and release of information from it has been consistent. It



looks and it feels different, and the reason that it sometimes looks and feels different is really the result of three factors. First, it really depends upon how the investigation itself is conducted by the independent investigator. Secondly, it depends upon how the physical report itself is prepared by the investigator. And third, it depends on the status of any ongoing investigation of allegations of officer misconduct. And let me explain how that works just in terms of talking through each of these situations. In 2004 -- actually, it started much earlier than that, but in 2004 the city released a summary report prepared by an independent investigator on an officer-involved shooting. The officer involved was a gentleman named John Coffey. I think some people know that as the Sophia King case because the citizen involved in that was a woman named Sophia King. The report that we had there was a much different process and a much different output than the Keypoint reports that we got in 2007 and last year. That John Coffey investigative report is the city retained an attorney up in Dallas to conduct an investigation, and he actually conducted a physical investigation, he came down to Austin, he interviewed people, he took witness statements, he got ballistic reports, he took photos. And he compiled all of that underlying information which is really kind of core investigative material, into some exhibits, and then on top of that he wrote a seven-page summary report. And that report was -- didn't have a lot of references to the specific underlying factual information. It was basically findings, conclusions and recommendations. But it did not have wholesale incorporated into it. A lot of the same types of references to the underlying investigative or G file material that we saw in the two Keypoint reports. Interestingly the -- that report was done by the investigator in the John Coffey matter I believe in 2003, but the city actually was not able to release the report for awhile because we had the same confidentiality issues and the background of the city's desire to make that report public was actually one of the drivers that led to the changes in the contract in 2004. As a result of all that the city was able in April 2004 immediately after the current language on release of public -- of independent reports was put into the APA contract, was able to release the report on the John Coffey investigation. The city had all that underlying investigation that was compiled was not released. Our records that what got released at that time was basically the seven-page report of kind of summary conclusion findings and recommendations. The other significant difference between the John Coffey matter and the Keypoint matter that we're dealing with now is that in the John Coffey situation there were actually no allegations of officer misconduct that were ever made against Officer Coffey. There were no allegations that would have a G file issue in any part of that independent investigator report that was done on John Coffey in 2004. It's different because of the content of the report and also different because the report itself was not part of an ongoing investigation of officer misconduct at that time in 2004. Let me talk a little bit about the Michael Olson case in 2007 where we used what was then Croll, and now Keypoint. We got a point from the Croll folks at that time, I don't know the length of it, but it was structured much like the report that we got from them last September in Officer Quintano's issue. What was critically different about the situation involving Michael Olson and the situation involving Officer Quinn Tano that we're talking about now is the status of the ongoing disciplinary investigation. When the city received the investigation report concerning Sergeant Olson in 2007, I think it was on November the 27th of that year. The very next day the chief issued the disciplinary violation notices to Sergeant Olson. And kind of contrasted with Officer Quintano's case here, the chief sustained the principal allegations, against Sergeant Olson at that time. Basically it meant that almost all of the report was immediately a file material because it dealt with allegations of misconduct that had been sustained. Unlike the situation here where we had over a month between the time we received and the time the chief made his decision on discipline, there it was the very next day that the chief made the decision and the sustained the material allegations. There was one allegation against Sergeant Olson

at that time that was not sustained. Actually, the city did redact small parts of that michael olson report in 2007 that referred to that unsustained allegation. Its difference here is that it was not sustained and that's really the main focus of the report that resulted in much larger redactions of material from the keypoint report in september of this year than you saw in the olson report in 2007. It also has the three different releases of information we had and the keypoint from last year and you can see where we are there. But the point is that the city's handling of each of these three points in the language of the meet and confer agreement has been consistent, it just looks and feels different sometimes based upon the three factors that are identified. The type of report, the structure and format of the report itself and then the status of the on going investigation. So that basically, mayor and council, kind of covers our briefing. There are some additional steps that we're going to take to try to ensure that we don't have an issue come up like this again in the future where the community's expectations seem to be disappointed about the city's inability to balance in a way that is acceptable our need to make our process transparent with the privacy and confidentiality rights that are built into the state law in the meet and confer agreement. I've talked about a couple of those here, but I'm mindful of our time here and this is probably a good time for me to stop. Are there any questions that I can help you with.

Mayor Leffingwell: City manager?

Certainly. We're sort of looking at where we go from here in terms of what our independent investigation process looks like in the future. One of the things that i think really will help us out is frankly is that we now have clarity with apa on what the meaning of the public release portions of the independent investigator language in the report mean. Basically what they mean from this point forward so that when the city manager commissions an independent investigation that the results of that investigation will be released to the public or able to be released to the public as soon as the city receives them, even if they do contain information that concerns ongoing allegations or if there is an issue of unsustained allegations later on. The report basically becomes public. I think that will help to kind of clarify and it will prevent us from having to go through that sort of three or four part inquiry about potentially redacting information while the matter is still ongoing. Second opportunity where i think we're better going forward is our desire to better involve the labor relations office in our process. They're the custodian of the original document on the memorandum of understanding. Frankly, when we made that contract language change back in 2004, as we went back and looked through our records on this, we had a difficult time kind of parsing through and determining what it was that we had really intended the language to mean. So I think there's an opportunity now to better involve the labor relations office which has that ongoing responsibility to maintain the relationship with apa as the bargaining representative for our lice officers. And that -- they function as the repository of the bargaining history and the institutional history of the meet and confer agreement itself. I think better involving them will help avoid any questions in the future of are we interpreting the agreement correctly. And the third opportunity we have is I think if we're going to use independent investigators in the future, I think we'll do a different and probably better job of talking with that investigator about sort of what the form and format -- not the content because that's not our issue to drive, but what really the format of that report will look like on the back end. So, for example, if we're in another situation where we have an outside investigator who is actually going to be performing investigative function, interviewing witnesses or taking tests or retaining subexperts, that type of thing, that underlying investigative material will probably not be part of the investigator's report to us because it

will still be considered g file material. I think we can avoid a lot of having to parse through what in a report can we produce versus what should not be produced by making sure that we get the investigator to correctly have the report under the qualities of the meet and confer agreement. And then fourth and finally, the -- incident involving sanders last year has a lot of diffe ramifications as you know and we've had people in the law department working one or more issues. We've got a really terrific group of lawyers who are very, very good on the specialty areas where they have been working, but i think, frankly, as we go forward and think about how this might look in the future, with have an opportunity to kind of better coordinate what we're -- how the lawyers work in different pieces of the legal issues that arise out of a common set of events or facts can work together to better share information to make sure that we're consistent. The last -- particularly the last two points about working on better reporting with our independent investigators and also being better coordinated within the law department, those are directives that came ott and the acting city attorney has been -- already been in discussion with a number of us in the department about moving forward on those. This week it's been kind after busy week for us so we don't have a lot to report on it at that time, but i know it's a high priority with mr. howard. Is there anything else that I can answer for you or provide for you?

Mayor Leffingwell: Let me say first I'm not going to have any questions for you today. I've submitted additional follow-up questions already in writing. So I'll just wait for the response to those. Just two points of clarification. First, early on in your excellent rort, by the way, you referred to the investigation by keypoint. And to me there was no investigation by keypoint. Keypoint wrote an analysis of the existing evidence and the interviews that were already done and collected. There was no new examination evidence. And that's what in my mind i would call an investigation. Actually, what they did was analyze what was already on the table and had already been addressed by other organizations. Is that correct?

Yes, sir, that is correct, mayor. I think that's a good clarification, kind of distinguishes the type of work they did from the type of work that the attorney did on the john coffey matter.

Mayor Leffingwell: That was the other point that i didn't know before you mentioned it today is there was no difference in the implementation of the policy between the olson case anded quintana case. It's just that there was very little redacted material in the case of olson, but the same guidelines were followed, is that correct?

Yes, sir. We followed the same tbied lines on the olson, but there was so little of it that actually got redacted following that died line. And our information, mayor, is that we did not get any public information request for that redacted material from the olson report, so the issue never really came up.

Mayor Leffingwell: Right. Any further questions? Councilmember cole.

Cole: I want to thank crawford, for preparing all this information and bringing it forward. I'm going to ask you a question that right off the bat you might not know the answer to and somebody might have to look it up. Do you know how many lawsuits we currently have?

You're right, councilmember, I do not know the answer to that.

Cole: One of the main reasons I asked for this briefing because we've had it for awhile now and we have all looked at it. I think that this case raises some significant policy issues that we need to think about as a council. I don't think we necessarily have to resolve them today, but I think they need to be discussed in public. You have alluded to them in your presentation, but one point that I definitely wanted to make is that now we live in an information age and the public demands and expects instant information. And we as elected officials often feel very compelled to give them that information. And I think we gently let y'all know that. But I also realize that there is a dichotomy between providing that information and full transparency, which we all want and all want to do with the law. I mean, simply state law, civil service laws guarantees of privacy and fairness. As far as I know, there's not a single courtroom in Travis County that allows TV cameras. Can you verify that?

That's correct based on my knowledge, yes.

Cole: And as I understand it, that is because not a single judge in Travis County, whether a Travis judge or a federal judge, expects the litigation process to be influenced by the media. And so my concern is just that we as a council think about the potential change in policy that we may make by trying a lawsuit in the media. And you gave an excellent example when you talked about the Sophia King case. Will you remind me and my colleagues about how that was handled differently than we handled the current case, the Quintana case?

The independent investigation itself? I think the mayor's correctly identified one of the principal differences in here, in the Quintana matter. We presented boxes and boxes of investigative file materials to the outside -- the independent investigator and basically they conducted a review of our file materials.

Cole: That's in Quintana.

Contrasted in the situation with the Sophia King or John Coffey matter where there was no internal affairs investigation in that matter. There was no allegation of officer misconduct. And so the independent investigator actually conducted the investigation and compiled his own materials and then wrote a short summary report about it.

Ce: I think that was about seven pages.

Yes, ma'am.

Cole: The reason I bring that up is because it was reported differently in the media. It was reported as if these were the contact same type of ways that we handled these two cases. And as far as I can understand, it just wasn't. Is that true?

It feels like the city handled them differently because of the factors that I identified earlier, just because of the different types of investigation that was conducted and frankly the different type of report that was prepared. But I think we're comfortable in the law department at this point, and I think what we want to do today is help council and the public feel comfortable that the city's overall process for how we handle

information from those reports has been consistent, just you get different results based upon the factors that I identified.

Cole: I only bring up that example not to of course criticize the media because I don't want to do that. I'm a politician just like everybody else on this dias, but just to simply point out that these are complex issues, legal issues. And a one page legal -- a one page newspaper report can't just absolutely get all these details right. And we need to be very, very careful about assuming that those facts in there are correct. Would you agree with that analysis?

I would agree with that completely councilmember. I appreciate you raising the point. We've taken a good while today of everyone's time to conduct this briefing, but as I say, I think it's constructive and pope fly it will be helpful for -- hopefully it will helpful for people to understand it is a complex question as to how the lawnd a the contract work in this type of set. Again, I would like to thank the council for giving us an opportunity to bring this information to the attention of not only yourselves, but the public as well.

Cole: Another difference is in the sophia king case there was an ai king file, wasn't there?

In the sophia king case i don't know that there was a separate file --

Cole: Investigation, i mean.

Yes. And those materials were treated as if they were ai, g file materials in effect.

Cole: Okay. The other line of questions that I have for you have to do with executive session. And to what extent not a full executive session, but even partial information in executive session can or cannot be disclosed to the public and the implications of doing that.

You know, we looked at that question recently councilmember, and I belve our general understanding and the acting city attorney can help me on this if I'm not saying it correctly, but our understanding is the councilmembers are basically free to talk about information that you learn or hear in an executive session outside of that executive session and that there's nothing in the law that prohibits you from doing that.

That's correct. Under the -- under the open meetings act, councilmember, the open meetings act has a specific provision that makes the -- either you keep a certified agenda or a tape, it makes those tangible pieces, either a document or that tape, it makes that information confidential. There has been an attorney general opinion that has interpreted that provision and basically the attorney general has said that members of the council maintain their first amendment rights, the ag opinion says it may not be prudent to talk about executive session issues; however, the first amendment continues to protect councilmembers and their rights to discuss any issues that they would like to discuss.

Cole: I simply bring this up because if that's the case it begs the question of why we ever go into executive session and we could perhaps decide as a policy matter to be even more transparent. Do you have any --

I don't know that that's a matter for me to have an opinion on. And I'm just now thinking about it. I don't really have a good answer for you at this point.

Cole: I guess it's not really a legal question, it's just a policy question that we need to think about in terms of the implications of that, if we are completely free to -- as a constitutional matter to make discussions. Because that is just something I did not know and I'm surprised and shocked to hear.

I think, councilmember, your question had to do was there anything in the law that prohibited you as a councilmember from discussing executive session. And there is nothing in the law that prohibits you from doing that.

Cole: Okay. Again, I just think that we need to think about that as a policy matter and perhaps get even more direction or recommendation or advice on it because we definitely have to nail what the rules are or are not. Because if we all have the right to come release information from executive session, then does that mean that the information that you give is no longer attorney-client privilege?

Well, I think, councilmember, you are asking probably a broader issue. I was addressing the issue about whether or not there was any state law that prohibits you from speaking about that. Of course the city council members maintain attorney-client privilege with the members of the legal staff here. The issues related to the communications that we have with you as individuals and as a body are protected by an attorney-client privilege that is recognized in the state of Texas. That's a more complicated area of the law that I don't particularly want to get into here, but I think that the law department, we can prepare something for you to maybe start talking about a little bit more the parameters of the attorney-client privilege, the communications that are protected by that privilege, and specifically under the law what the law has said about waiver of that privilege. I think those issues do intertwine with executive session and the privilege that the state law creates for an executive session, but I think we probably need to have a much more broader discussion about that. And I think I would maybe like to do that in executive session.

[ Laughter ]

Cole: You know, I would too. And let me just say that --

Mayor Leffingwell: That will be next council meeting.

Cole: Yeah. I would like to have that.

Mayor Leffingwell: I think it's the subject for another meeting.

Col I AGREE, MAYOR.

Mayor Leffingwell: Mayor pro tem.

Martinez: Thanks, mayor. I do have a few questions here. I apologize. Before I go into questions, we're talking about this process and it may have broken down and may not have. I could want to take a brief moment to acknowledge the bigger issue here, and that is that someone lost their life. And I don't want us digging down in the weeds over what may have broken down in terms of communication and information to lose sight of that fact. That that is still to me the biggest and broadest issue is what policy decisions do we have to make as a council to keep young brown and black men from getting shot by our police department. That really is the issue that is important.

[ Applause ] so with that, i wholeheartedly disagree with what I just heard because i have been told for the last four years repeatedly that i can't speak about anything that's told to us in executive session, nor can i individually waive the attorney-client privilege myself. In fact, I asked the question last week over a confidential memo that was given to me based on a question that I had asked. And the response was you can't individually waive that right. You as a council can waive your attorney-privilege, but not you as an individual member. So I disagree at least with what was said today because I've been under a completely different understanding the entire time I've been on council. If we actually had the right to talk about and/or release what was given to us, why warrant we told this last september as a council in executive session? That what you're hearing in here today you can go out and talk about?

[ Applause ] we were never told that. So it's -- at a minimum it's frustrating, but I do have some specific questions. As it relates to 143089-g, it was something I was extremely familiar with being president of firefighters, something we dealt with. As the president of the firefighters, I was always told, man, I wish I could show you that g file because you would agree with me. This is what I was told by the fire chief wherever i would represent firefighters for discipline cases. What I found out after koenig, our assistant city attorney, is that what's classified as g file material is absolutely and extremely subjective. There's nothing that says this has to be g file. It's completely subjective and it's determined by the city attorney, police chief, advisors, whoever. So that is a point that needs to be clarified whenever we talk about the g file stuff and we can't lee re lease it unless the chief agrees with what's in the g file. The broader point is what makes it a g file to begin with?

[ Applause ] that's a very subjective process that we have. So when we sought by law the attorney general's opinion on whether or not we should maintain information as redacted or confidential, had we turned over all of the information that we had at that time, which is the keypoint report that was criticized by a lieutenant in california, could there have been a possibility that the ruling would come back saying the keypoint report may not be able to be released because it wasn't agreed with in totality, but what was written here in the margins, you have to release that because it's not part of the keypoint investigation. Could that have been a possibility back in november when we sought this opinion?

I don't know the answer to that question, councilmember. I have not thought about that frankly until you just said it. The report that we did submit was the keypoint report itself. It wasn't the copy that had the margin that was on it. And what we indicated was the part that had been redacted and not produced pursuant to the open meetings act request. And that's sort of the process of the law calls upon us to follow in that situation. So I don't know how it would come out had we ask it the way you suggested.

[One moment, please, for change in captioners]

talked about the fact to us that the city law department used to exercise that judgment. To determine what could and couldn't be released. For instance, is it already in the public domain. Or does it relate to -- to issues that are not part of an ongoing investigation. And -- and, yeah, there's -- there's judgment that goes into making that determination. I -- I believe we tried to exercise that as objectively as we could.

Recognizing again that we were reflecting all of this against the back drop of those two twin pillars of state civil service law that I talked about earlier. That's probably the way that I would say that.

Okay, I just chose to say it the way that I wanted to.

Mayor Leffingwell: Councilmember? Councilmembers -- we are 40 minutes late for citizen communication.

[ Applause ], and as you all know, we try very hard to -- to stick to a tight schedule on that. Because folks come down here during their noon hour to do it. If there's no objection to this, we can resume this questioning later in the afternoon. Go ahead and go to our citizens communications and get that part of it done.

Martinez: Mayor, I'm going to object because i have a couple more questions.

Mayor Leffingwell: Sorry. All right. Go ahead.

Martinez: In your slide presentation, one of the bullet points you test the answer of whether the answer is question to this question. Is it information about matters not related to an ongoing investigation or alleged officer misconduct. Would you please -- would you please define for me what ongoing investigation of alleged officer misconduct means in this context.

That's a very good question because that phrasing is not really something taken from civil service law or from our contract. That's just sort of my phrasing for kind of a rule of thumb way to look at the content of the -- of the -- of the report. And determine what can and can't be released. What I am really referring to there is are they talking about stuff that really doesn't -- it is not --

[indiscernible] material or part of the investigation of the misconduct. So for instance in the keypoint report there were a number of sections that talked about different state and federal laws and the city's use of force policy, for instance. There was -- those to me would not be related to the ongoing investigation. So that's really what I was getting at. But if your question is, is that a legal term of art, no, sir, it's not. It's really just kind of a rule of thumb phrase that i used, a shorthand way to describe the analysis that we went through.

Martinez: So based on that point, that bullet POINT, AFTER NOVEMBER 5th, After the chief issued his discipline in this particular case, then the answer to that would have been yes. Because it's not related to



an ongoing investigation. Because the chief has made a decision. The investigation is over. Is that not correct?

That would be true on that bullet point. I guess the -- my -- the concern that we had was that maybe the next bullet point talks about the unsustained allegations. Allegations.

Martinez: Right.

And the concern there is that sort of the way we read that part of the meet and confer agreement, that anything that -- that referenced either evidentiary facts or other substantive information, investigative information from the file, I think that's the actual phrase in the meet and confer agreement. Whether it's in the findings or whether it's in the conclusions, and it relates to unsustained allegations. The way we had understood the intent of the parties in drafting that part of the agreement, it needed to be redacted and couldn't be released.

Martinez: That leads me to my last question. You are following right along, segues into that. Speaking of the meet and confer agreement, so -- you signed this memorandum of understanding based on language in a contract. Do you believe that circumstance vents the public -- circumvents the public process of this council voting on the contract with a certain intent and/or the membership of apa voting on a contract with a potential intent based on language that they read? circumvent that process?

No, sir, it doesn't. That's -- I'm glad that you raised that point because i think it helps us to be able to distinguish two different situations. One is where the parties modify or amend the contract. That's where you are actually changing the rights and responsibilities of the parties to the contract and with respect to each other. That type of an action, a -- changing somebody's rights or modifying somebody's responsibilities or duties, that's an amendment to the contract and you are absolutely right, that would require a vote of the membership. But what we have determined here is that we have language that -- that we thought meant one thing, the union thought it meant something else. We determined that we had a common intent. So we're not really changing anybody's rights or responsibilities under the contract. We are clarifying what both parties had actually intended when they wrote that contract.

But it seems like the argument could be made that's a pretty significant change when the report doesn't get released and when it does, even though you don't change language, i mean, I would say that's pretty substantial. But I'm glad, you know, I'm glad I was able to ask that question because I really felt uncomfortable about an substantially, substantially changing our process, you know, without having a full public discussion and/or public policy decision by this body. I think that's very significant moving forward. If we're going to start changing the interpretation of contracts that we have with our workforce, based on 's, you know, I would want us to be very cautious about that moving forward because it can cut both ways.

Yes, sir. I think that's a good lesson for all of us there, i appreciate your comment. Frankly I think that's the way that we all look at it as well.

Martinez: Thanks, mayor, that's all that i have.

Mayor Leffingwell: Other questions? Councilmember spelman?

Spelman: Mayor, I have several questions, but I'm cognizant of your need to move on with things. I'm happy to ask my questions after we take citizens communication and go into executive session.

Mayor Leffingwell: Okay, anyone else? All right. We'll bring you back.

Thank you, mayor. -- First speaker is ben rodgers.

First speaker is ben rodgers, the topic is brodie.

My name is ben rodgers, i have been a residents of austin, texas, for 27 years, I would first like to thank you all for your service to the great city of austin. Your dedication and hard work as public servants for all of us is much appreciated. I come to with you a CHALLENGE, ON JUNE 17th, 1990, The city council, the mayor and the citizens of austin rose up to protect the edward's aquifer. Out of this action sprang a movement that would eventually pass one of the most valuable ordinances that our region has seen, the s.o.s. ordinance. The passing of this ordinance lies at the heart of the reason why you, i, and everyone else with a few dollars of pocket change can still visit the pool at barton springs. It is also a large reason 7 million people can still call the edward's aquifer the source of their drinking water. However, an ordinance has come along that threatens the well-being of the aquifer. Ordinance 2008-06-05-043 gives local builder wantner southwest the right to build a 272 unit apartment complex directly adjacent to brodie wild. A water quality protection property at the quarantine of slaughter lane and brodie -- corner of slaughter and brodie lane. In direct violation of the s.o.s. ordinance. The current plan for the apartment complex has 65% impervious cover. Four major sink holes exist in brodie wild that feed directly I edward's aquifer. In march of this year i participated in a cleanup of brodie wild responded by the austin native plant society. Amongst other detritus i found and hauled away, many pieces of styrafoam, plastic bottles, aluminum cans and the worst a fire extinguisher. I found all of this even though there's no development directly adjacent to brodie wild. Imagine the amount of trash and detritus, the chemicals from things like the fire extinguisher that will find their ways into the sink holes and directly into the edward's aquifer if the apartment complex is built. My challenge to you is this: Think of your place in history. Will you stand with the council from 1990 that helped protect our watershed? Will you rescind ordinance 2008-06-05-043? Five years from now on june 7th, 2015, on the 21st anniversary, will you look at your grandchildren, children, friends, your neighbors and say to them, i was a part of this movement? I helped keep our water clean and our environment safe. Will you do that and stand with the 96 folks who have signed the e letter asking for this ordinance to be rescinded? Will you rescind it? Will you rescind it?

[Buzzer sounding] thank you.

Mayor Leffingwell: One quick question. One quick question.

Sure.

Mayor Leffingwell: 7 million people who get their drinking water from barton springs-edward's aquifer?

Many of them are in the water municipality that is served by san antonio, i believe.

Mayor Leffingwell: So you are including that, the entire edward's aquifer, not the barton springs -- which is separate. Thank you.

Uh-huh.

Councilmember morrison?

Morrison: I have a question that's actually going to be for our legal staff and I think that it's probably an answer that can't be given right away. But I would like to throw it out there. That is I would like to understand how it is that we can effectively -- oops maybe ms. thomas can answer. Or later. How it is that we can -- we as a council can effectively zone by ordinance when state law guarantees a public process for zoning and then what are the restrictions on us changing that ordinance?

Councilmember, what i believe you are discussing is we're talking about the mission bethany ordinance. That ordinance was to address the vested rights of that property. And when you are looking at a vested -- from a vested rights position, and whether or not zoning actually applied to that property, is -- is a question, and if it didn't then we're not violating state law. If it did, then we couldn't zone without going through the entire process. But if you would like me to come and talk to you about the entire process, I can do that.

Okay, I would appreciate that. Thanks.

Linda yates.

I'm malcolm yates. Linda isn't able to be here today.

Mayor Leffingwell: Technically, you are not allowed to speak for her. But if there's no objection from the council, we will wave that rule and you can speak in her place. You have three minutes.

My name is malcolm yates, a member of the east riverside austin oltorf combined neighborhood planning team. I'm here today to speak about crime. Could we have the first slide please. performs with amazing effectiveness with the resources they have. currently has staffing levels that are not sufficient to cover all severity 0 and 1 calls and provide proactive neighborhood based policing across the city. Violent crime is trending up ward in addition to robbery and assaults. This presentation shows current and historical data that demonstrates the following. First, several sectors do not have officer coverage in proportion to their population density, high call volume or disproportionate amount of violent crimes. That's this -- this graph right here. People second, violent crimes continues to grow, specifically in the same hot spot sectors. This fact illustrates the need for substantial staffing and overtime. So this -- could we have the second please? This is showing by sector and showing the disparity between the amount of crime per sector.

Third, neighborhoods are upset about the reduced level of service for non-violent crimes and the loss of district reps, this was discussed at the citizen-led austin safety partnership meetings. Citizens are requesting review of other budget reduction options. And to increase budget for civilian and officer positions. The data in this presentation shows the growth of crime since last year's budget cuts. Lives of citizens and officers. E rock and the other neighborhood group sectors and councils do not want to see crime continually increase due to loss of a.p.d. budget. Under the cap complaint process we are requesting city council and city manager to review and publicly address, first, staffing and historical allowance of some areas of the city to have seven times the amount of violent crime as other areas. This endangers all sectors as these hot spots provide the criminal element that is now leaking to sectors. Second, loss of civilian due to budget cuts now has officers doing administrative work instead of police work. Please review this policy. Third -- [buzzer sounding]

-- I have the point when growth -- identify the point when growth in the city ceases to pay for itself, already crime and traffic issue with population, public safety staffing and infrastructure --

Mayor Leffingwell: Mr. Yates, your time expired.

Thank you.

Thank you, I apologize for mispronouncing your name, they get spelled wrong sometimes on these things.

I you can address these issues, thank you.

Mayor Leffingwell: Thank you, ruth anderson. Topic is building projects on the barton creek watershed.

Greetings, my name is i have researched ordinance 2008-06-50-43 that allows developers to ignore laws that protect the watershed and -- next to brodie wild, a city owned water quality protection land. I believe it is I am perrive for you to address the pressing issue of water quality and rescind this ordinance. I am a public health professional. With 30 years experience, 16 at the state health department. In these 30 years, I have seen statistics rise aalarmingly for problems caused by hazardous chemicals, including breast, prostate and ovarian cancer. We are losing the battle against cancer. As we pollute our air and water more and more. Seeking progress, we allow more construction on watershed land. The rain washes over buildings and black tops, collecting toxic chemicals as it goes. They harm our water supply andthereby our bodies. Our water comes from the edward's aquifer. Water enters it from land. This gives a special permit to overbuild next to brodie wild. Brodie wild contains several sink holes. Dye tests by the city show what enters these sink holes appears in barton springs about 30 hours later. Barton springs is a doorway into the act if you are, it o -- elk if you are, it can -- aquifer. It can warn us when our springs are in danger. Significant chloroform and trichloroethylene. Too much in the water supply causes cancer. The federal government identified chloroform as toxic to the liver and kidneys and tce as causing health problems that include cancer and damage to the brain, kidneys, liver, immune system, male reproductive system, and the developing fetus. Chloroform and tce in barton springs are recent pollutants from human activities. Our water supply is already contaminated at low levels. If we or rather you keep issuing special

deals for overbuilding on the watershed, pollution levels will increase. Even the best water treatment process cannot purify overloaded city water. In the years ahead, we will see more cancer in austin. And other problems caused by unsafe water, too. You can ignore this issue and realize later that you were here, here, in this council chamber, at the crucial moment and you failed to prevent serious harm to the health of austin's citizens. Or you can act now to save our water. Please, start now. Rescind this ordinance so any construction near brodie wild must comply with city code already in place to protect the watershed. No one's vested rights trump all of our rights to clean water. From now on, if a developer asks for a special permit to overbuild on the watershed for personal profit, at the expense of your constituents' health, vote no. My colleagues and I care about this issue. And we vote. Thank you for your attention.

Mayor Leffingwell: Thank you.

[ Applause ]

next speaker is christopher ringstaff. Code compliance and review.

Good afternoon, council, thank you for your time today. This issue relates specifically to heritage oak that I have on my property. And -- and I'm buying the property in february of 2008. This large 125-inch diameter tree immediately began going in decline. Over the course of the next year, I had a team of two arborists, working on this thing, to try to save it. The second arborist from davey tree company informed me that there was an excessive amount of fill material that was a clear code violation. So immediately I went to -- to the -- contacted horton and called the city arborist, which my phone records will verify. That was in early june of 2008. 2 Forgive me. Anyway, what happened after that was he said oh, i remember that particular case, then I -- I didn't get any particular help, but, you know, he -- anyway.

So I began going to dl horton saying look, there's a code violation here, what are you going do about it?

I have thousands of cubic feet of clay fill on the critical root zone of my tree, this is a code

violation, what are you going to do?

Okay, well, we'll do the mitigation for you.

But you'll have to pay up front because, you know, this tree service [indiscernible] contract.

Anyway, so the -- we do the mitigation measures.

And then I go to get my reimbursement, well, no, you're going to have to sign a release agreement.

So for my phone -- per my phone record, I call the city arborist saying hey, look, man, these guys are trying to force me to sign a release agreement for a clear code violation.

You have to back me on it.

And he refused.

He clearly refused on SEPTEMBER 1st, 2009, TO, You know, give me any regulatory background.

So -- so I had no option, i had to sign the release agreement.

We just had a child, I was broke, we needed that money back.

Anyway, I had to hope for the best.

The tree went into decline.

It died, you know, half of it dies then so I -- so I said, you know, I'm calling Greg Guernsey, I'm going to the boss.

Well, you know, come February, they both came out.

I show them the fill material, look, this is a clear code violation.

You know, Michael  
[indiscernible] let me call D.R. Horton.

Oh, well yeah what happened to you buddy, you know, in September when I needed you and now half the tree is dead oh, and let me call D.R. Horton.

You know, this transfers the mitigation costs that should have been initially given to Horton to remove the fill to my family.

My -- my family is getting these mitigation costs.

I did bring the picture.

Those are the people --

Mayor Leffingwell:

Thank you, your time has  
expire

okay.

I'm going to leave these  
materials here with my card.

I beg of you to contact me  
on this matter.

Mayor Leffingwell: Just  
leave them with the clerk.

Thank you.

Next speaker is jim  
harrington, comments on  
keypoint.

Thank you.

I think the three minutes  
allows me to be  
characteristically direct  
with an excuse.

If I had three of my own  
slides to show to you today,  
the first one would be in  
sanders, I'm  
sorry, lee crawford, it  
would be smoke and mirrors.

The second one in response  
to him would be the state  
board of education rewriting



history.

And the third one would be  
george orwell redefining  
investigation.

I think as councilmember  
martinez pointed out the  
issue here is that somebody  
died.

Top we have a report  
prepared by experts.

Expert's whose testimony  
wouldn't stand up in court.

All of a sudden we are  
redefining that as not being  
significant.

If it's not significant, mr.

Mayor, why did we spend  
\$50,000 for it?

[ Applause ]  
there's nothing unclear  
about that meet and confer  
agreement that has been on  
the books since 2004.

Reaffirmed in 2008.

Other than redefining the  
terms of its existence.

What bothers me most about  
what's going on and watching  
this this morning, is we're  
not talking about the issue.

The issue is that this kid

died, six blocks from where  
I live, four blocks from  
where my grandson lives.

We don't want this happening  
on the east side and why did  
it happen?

[ Applause ]  
why?

The diatribe by art acevedo  
on that saturday, followed  
by all of his e-mails to all  
of us on sunday never talked  
to the issue.

It's about cya whoorks is to  
blame.

Clear there's a conspiracy,  
g file, carter's memo, chris  
dunn thing, all that,  
cleerm, but let's move  
beyond that.

Let's move beyond that.

What bothered me about that  
report, I'm sorry the  
statesman didn't go after  
this when they had the  
chance at the beginning,  
that we had to file the suit  
a few months later.

But what bothered me about  
that report and the reason i  
wanted to see it is because

it faulted the city on training.

It said the training was terrible.

This happens at the same time that the city is telling the department of justice that we have a great training program.

And then we see the fault on the excessive force.

These guys, these two prosecutors and this police officer used terms of art in constitutional law.

They created a highest liability.

This wasn't a negligence case as what happened with John Coffee, actually I was the attorney for that family for a long time, I'm very intrigued about how Mr.

Crawford reconstructs that case.

But the point here ought to be mea culpa, let's get on with business, get on with that report and figure out how this should never, ever, ever happen again.

[ Applause ]

Mayor Leffingwell:  
Thank you, mr. harrington.

This is not about the  
police chief.

Mayor Leffingwell: Your  
time has expired.

It's about everybody.

[ Applause ]

Mayor Leffingwell: Next  
speaker is chr  
alvarez.

Christina alvarez.

Not in the chamber.

Babs warren.

Babs warren, topic is  
fluoride.

Ladies and gentlemen,  
excuse me -- my name is babs  
kelly warren.

I need to pull that down, is  
that better?

I was born in austin, texas.

I'm very, very proud to be  
from austin.

One of the most beautiful

cities in the united states.

Or in the world for that matter.

I'm deeply concerned that the -- that the fluorosalic acid, which the city of benignly calls fluoride is a waste product that we have to buy from florida to put in our drinking water.

I grew up water skiing all of the local lakes, I'm probably the oldest woman speaking today, so please listen to me, okay.

You have been given many times the information about fluoride from some very dedicated women and a lot of men.

You have not gotten informed enough to do anything to stop fluoride.

It's so corrosive it eats through metal and glass.

Did you all know that?

Did you learn about this stuff?

In 2001, the federal centers for disease control admitted that any benefits of fluoride come from topical application, that's brushing

with fluoridated tooth  
taste.

Not eating and drinking.

In 2006 both the centers for  
disease control and the  
american dental association  
admitted that fluoridated  
water is harmful to infants  
and warned against using it  
in baby formula, tap water,  
baby juice, food, cereal,  
formula and bath water.

We're getting the stuff in  
our bath water.

And I haven't been having

real hot baths or showers  
for a long time now because  
of it.

Anyway, what is fluoride?

Fluoride is a name given to  
any chemical compound  
containing the element  
fluorine, whether naturally  
occurring or produced by  
industry.

The fluoride used in  
austin's water is called  
fluorolitic acid.

It is a byproduct of the  
phosphate fertilizer

industry.

How toxic is fluoride?

I hope you all are listening to me, because this is going to affect you, your children, your grandchildren and everybody else.

So please do something about it.

It's a exoantd of rat -- component of rat poison.

I learned about this when i was a teenager.

Rat poison.

It had fluoride on the outside of the box.

I will never forget it.

So it's a -- it's corrosive, enough to etch glass, fluoridated toothpaste carries a poison warning on the label.

prohibits discharging fluorides directly into natural waterways, including the ocean.

Look what's happening to our ocean now.

Fluoride disposal is regulated under the rules

for a hazardous waste.

We shouldn't be letting  
little babies get sick or  
die from it.

[Buzzer sounding]

handlers are required to  
wear an niosh approved  
cartridge respirator with  
full face shield, tight  
fitting chemical splash  
goggles and acid protective  
clothing gloves and shoes.

Mayor Leffingwell: Your  
time expired.

Thank you very much.

Thank you [ applause ]

Mayor Leffingwell: I'm  
sure we all -- we all  
appreciate the enthusiasm,  
but we're going to have to  
hold it down or we're going  
to have to clear the  
chamber.

Okay.

Next speaker is ahony  
walker.

fight for you as a  
politician and leader if you  
are not going to stand for  
the truth.



I thank you, mike martinez  
for having the guts and  
courage to at least raise  
the issues in the current  
concerns because you are our  
politician.

Elected official.

Which makes you governor of  
the people for the people  
and by the people which  
means that you have the duty  
and responsibility to  
respond to the critical  
needs of the people.

Any time that our  
politicians our leader is  
not going to responds to the  
leaders -- the people's  
concerns, they need to be  
reformed or they need to be  
abolished.

[ Cheering ]  
now, three minutes is not  
enough time to really get to  
the truth.

Because, see, y'all are the  
dictators.

You have to be able to come  
from around those benches  
and start going to the  
community to hear the  
people's concerns, the  
people's issues and stop  
being here just going along  
just to get alonghorn.

We are not here -- get along.

We are not here to make friends or enemies, we want the truth.

We want the city mayor, city -- I leave the police chief, to apologize to the sanders family, smith family, if you are not willing to apologize under no circumstance can we compromise.

ON NOVEMBER 8th -- ON NOVEMBER 4th, 2008, WHEN America went to the poll we voted for changes.

In may of last year, we went to the poll, we voted for changes because the mayor said he was in it for us.

So actually the mayor start taking a stance stand up for what's right.

I voted for you.

There's many people in this city, that stands for justice, before change can come about at a national level, we must first start at a local level.

Every citizen, business, community in this city contributes to austin being a city in texas.

Texas is the lone star state  
in america.

In america, my brothers and  
sisters in christ is one  
nation.

Under god, with liberty and  
justice for all.

May god bless us all.

Thank you, anthony.

[ Applause ]  
next speaker is debbie  
russell.

You have flee minutes.

Thank you -- three  
minutes.

Thank you, mayor, a

mighty hard act to follow.

I would like to quote  
michael king who said this  
is not austin's finest hour.

We needed answers from day  
one.

We were looking for answers.

We ended up after several  
months spending auto

thousand dollars to get --  
\$50,000 to get those  
answers, we spent \$50,000 of  
our money for our benefit,  
but yet we weren't allowed  
to see the results in full.

And actually I should note  
after this, I expect my  
50,000 check for giving my  
opinion here today.

We hired -- sorry,  
now through public  
pressure or maybe it  
was fear of losing  
this lawsuit and  
having another hit  
record,  
we have because of  
the tcrcp lawsuit we  
do have finally the  
report in full.

Not only are we not  
really acknowledging  
the claims that you  
hid behind in hiding  
the report in the  
first place fully,  
we refuse to  
actually acknowledge  
the substance of  
that report and we  
are not having that  
discussion yet.

We should.

There's a lot of  
questions that it  
raises.

We also are -- i  
want to say one  
quick points about  
the memo released  
last week.

There's no new  
information in there  
honestly, most of  
that I could have  
piecemealed together  
by press clipping,  
what has already  
been exposed.

We were looking for  
who knew what when  
and we are not  
seeing or hearing  
that from you yet.

That is the  
discussion again we  
need to have.

We need to have  
accountability, office by  
office, department by  
department, and leader by  
leader.

The other thing that it also  
doesn't mention if you put  
that up, the johnson report.

Nowhere do you see the word  
johnson in the memo.

We are not talking about

that, that is a key piece here.

That is the report that was hidden from not only the grand jury, but from the public that was released -- a leak -- a week before -- the keypoint, that report again comes one the same charges that we saw through the keypoint report.

This was a lead investigator's report who came back from vacation and found the dunn-harkin report to be biased and incomplete.

He turned this into the chief.

What did the chief do to that?

That's not on the time line, mr. ott.

That should be on the time line.

When did this report get turned into the chief and when did the chief turn over to the grand jury his report.

That is the accountability piece that we're missing.

Just in that one piece.

I can't do much in three

minutes.

Then what we also need to  
look at, if you will put  
this up, speaking of chief  
acevedo, this is what  
happened from day one  
[buzzer sounding] if I can  
leave you with this, this is  
why we're here today.

Mayor Leffingwell:  
Thank you, debbie.

Can't play it?

Can I play it --

next speaker is daniel  
cloper.

[Inaudible - no mic]

standing here.

I am confident and the -- in  
the legality.

Mayor Leffingwell: Next  
speaker is daniel cloper.

Is daniel cloper in the  
chamber?

Choper?

All right.

Those are all of the  
speakers that we have signed  
up in citizens  
communication.

So without objection, the city council will go into closed session to allow

discussion of real property to take up one item, item 67, concerning acquisition of real property to be included in the water quality protection land program.

The council will also go into closed session pursuant to 074 of the government code which allows the deliberation regarding personnel matters to take up one item, item 68, to evaluate the performance and consider compensation and benefits for the city manager.

Is there any objection to go into executive session on the items announced?

Hearing none, the council will now go into executive session.

[Rumbling]

Announcer: What if a disaster strikes without warning?



What if life as you know it  
has completely turned on its head?

What if everything familiar becomes anything  
but?

Before a disaster turns your family's world  
upside down,  
it's up to you to be ready.

Get a kit. make a plan. be informed today.

>

>

>

> test test test test test  
test.

>

test test test test test  
test test test test test  
test test test test test  
test test  
acevedo  
test test  
acevedo  
key point-blank blank coint  
buchman  
rosie truelove  
we are  
out of closed session.

In closed session we took up  
and discussed real property  
issues related to item 67  
and deliberated personnel  
matters on item 68.

So we will now resume our question and answer session on the keypoint response briefing.

And first of all I'd like for the city attorney to make a brief statement.

Yes, mayor.

I would just like to expand upon a statement that was made earlier when we were having a discussion about confidential communications between the attorneys and members of the council and other clients of the city, to make a point that confidential communications include not only verbal communications but also written communications.

But as I said earlier, there's some very complex set of standards about the attorney-client privilege and those confidential communications, and I would really like to have the opportunity to take the council into executive session and lay out some of the multidimensional aspects of attorney-client privilege, those written and verbal confidential communications, how that relates to executive sessions, what the law says

is and is not prohibited and talk about some of those broader issues with the council on a more in-depth basis.

all  
right.

Council, the floor is open for questions.

Council member riley.

Riley: thanks, mayor.

I just have a couple questions.

The first relates to the language of the -- the contract with the union -- with the agreement.

Article 16, section 5 seems to have pretty plain language that contemplates the public release of a final report prepared by an investigator who conducts an independent investigation, and so I guess I'm -- after reviewing that language I'm wondering -- well, the same question that was stated by harrington during his -- in his communications today, what's so hard about taking that language and applying it to allow the release of an investigation like this?

Why was that such a challenge for us?

Yeah, that's a very fair question, council member, and let me address that because I did not go into a lot of detail on that earlier, but the language from the meet contrare agreement you're referring to is actually set out in three kind of subsections of section 5 of that article.

The first part of it, which I think section 5 a does as you properly identified, state as a general rule that investigation reports are -- or can be released to the public, and then part b of that same section states an exception to that, and that's where I believe the phrasing that's used, evidentiary facts or other substantive investigation from the file is to be accepted from the general rule of public release.

D then there is sort of an exception to that exception, for materials that are either already in the public through lawful or appropriate means or for information that is no longer legally protected by the state civil service laws.

So what you end up with, then, council member, is a general rule in favor of disclosure and then an exception to that general rule and then an exception to the exception, and the exception to the exception then incorporates that sort of dual g file versus a file concept that we talked about earlier this morning.

And when you put it all together it's fairly difficult to work through, and particularly challenging, I think, for us as we kind of looked back over how the releases had laid out on this matter, was the language evidentiary facts and other substantive investigative information from the file and exactly what did that concept -- or that phrase mean, and that, I think, is where we believed initially that the union in negotiating that language in the contract may have had a different meaning in mind from what we would have in mind, and so that's, I think, what created the -- some of the confusion in how the releases went.

so when we see the redacted portion of the keypoint report, when the law department was going over their report, the

department made the determination that those -- those portions -- as to those portions that were redacted, the law department were thinking those comprised evidentiary facts or other substantive investigation from the file.

Yes, sir, and -- and they fell within that sort of subbucket and they were neither already public through lawful means nor were they legally protected from disclosure.

I want to move on to the attorney general ruling.

I'll confess I did not read through the meet and confer agreement from 2004 during the past six months.

I did look at the attorney general ruling, which was what was cited to us as the reason why the information couldn't be disclosed, and when I saw that -- saw the language on page 5 of the attorney general ruling saying that upon review of the agreement and the information at issue, we agree the city must withhold the information you have marked.

-- The information you have

marked in the independent investigation file.

And what's confusing me at this point -- I took the law department to be saying that this precluded us from releasing that information, and that's what we heard from the law department, and when I read this that's -- the language of the attorney general ruling seemed to confirm that.

But what's confusing me now is it seems like -- you just said a little while ago that the memorandum of understanding did not alter the agreement in substance at all.

It was not a modification of the agreement.

It was just -- rather, it didn't modify the meet and confer agreement.

Yes, sir.

It was just a statement of understanding between the parties to the agreement.

So if the attorney general

opinion ruling was based on the agreement itself and the

information that was marked in the keypoint report, why -- how did we feel at liberty to go ahead and release that in the face of an attorney general ruling saying this withheld, if, in fact, -- if it precluded us from releasing that information before the mou, how did the mou free us from that restriction if the mou didn't actually change the terms of the agreement that form the basis of the ag ruling?

Yes, sir, and that's a very fair question, and again, not one that we covered this morning, but let me address that specifically.

When we executed the memo of understanding with apa, we actually considered the question of what is the current effect, then, of the attorney general opinion letter before we made the decision to authorize then the release of the full report.

And our analysis on it was basically that -- as i mentioned this morning, we're required under the open records act to go through the statutory procedure of requesting an



attorney general opinion  
when we receive a public  
information request and when  
we believe in good faith  
that there is information in  
the scope of that request  
that should not be produced  
because we're legally  
required to keep it  
confidential.

As a result of the  
memorandum of understanding,  
we no longer had a belief  
that there was any  
information in the keypoint  
report that we were lawfully  
required to keep  
confidential, and so our  
analysis is that the  
attorney general opinion  
letter would no longer be  
applicable because we did  
not have that fundamental  
underlying belief in good  
faith that there was  
anything that needed to be  
withheld.

And so on that basis we felt  
that we were able to release  
the report.

I might also add, council  
member, that there's no  
procedure or mechanism

within the public  
information act for sort of

going back and requesting  
kind of a re-review by the  
attorney general in a  
situation like this.

It really turns on our good  
faith belief that we  
continue to have information  
that should be held that  
drives that.

but if we had  
had -- if we had wanted to  
release the information up  
front, then we could have  
gone ahead and done that  
instead of requesting a  
ruling, and that would  
have -- I mean, if we had  
taken the same aggressive  
attitude -- I guess the  
fundamental problem is that  
given that we knew that we  
wanted to release as much  
information as we could, it  
seems like if there was any  
uncertainty about the  
agreement, we could have  
gone to the association  
months ago and worked  
something out with the  
association and then just  
made clear -- made sure --  
confirmed our understanding  
so that we could have  
released the report instead  
of waiting for a quote to  
turn up in the statesman.

And that's also a fair  
observation to make and let  
me give you a little bit of  
context on that comment,

council member.

You know, we've had this language in the meet and confer agreement that talked about release of the independent report for several years, and we simply had not had any indication from apa that they interpreted it or interpreted the city's role in releasing information any differently from the way that we had handled it.

And so, for instance, if you look back to the 2007 release of the krol report on the sergeant olson investigation, we did minor redactions from that, minor, admittedly, but we did a little bit of redacting on the one charge that was not sustained, and we did not get any -- any indication from apa at that time that they believed that the whole report could be released or that we were incorrectly interpreting the language in the release provision.

Similarly, when we did the

earlier releases on october 5 and november 5 here, we did not get any

indication from anyone that our interpretation of what should be redacted and what could be released was different.

In other words, we were not getting any indication at that point either that there was a different view that apa might have about the city's obligation in terms of what should be withheld and what released.

And given that and given what we had, I had thought, was sort of the meaning of the language at that time and the real intent of the parties, it simply did not occur to us that we might have that opportunity to better clarify the language withpa.

In retrospect, I think it's easy for us to say at this point, gee, I wish I had known now -- or back in october what I know now because a lot of this would have been obviated.

You're certainly right there, sir.

Riley: all right.

Thanks.

council  
member spelman.

my apologies,  
lee, this sounds a little  
bit redundant because I only  
caught the last two-thirds  
of what council member riley  
was asking, but it sounds  
like he was following up on  
a parallel direction of  
where I want to go, but i  
think this is sufficiently  
different.

It's worth spending a little  
bit of time on.

Yes, sir.

I'm more  
interested, actually, in  
what happened before on  
after the law department  
came to its conclusions but  
let me go in chronological  
order to be sure I know what  
happened.

The beginning of your  
statement you said you got a  
clear instruction from the  
city manager and from the  
chief of police to release  
everything possible.

I think your exact words --  
they told you to release  
everything you possibly can.

Does that sound familiar?

That's a good enough  
paraphrase of it, and I will  
say, council member, that

instruction did not come me personally.

When I said me or we, I was really referring to the law department and the attorneys in our office working on the matter.

you were not yourself involved in this matter until fairly recently

either.

That is correct.

I'm actually a relative newcomer to city service myself.

so this is going to be here say evidence, but let me ask you this.

To your knowledge how was that instruction reillegalised to your comrades?

How did you know to release everything you could?

That instruction came to the city manager through assistant city manager McDONALD, IN THE CITY Manager's office, and then also directly from chief

acevedo.

And I'm comfortable, even though I did not hear those words myself, I am comfortable that those instructions came to our department.

So chief acevedo had a conversation with sterch son sterch son for example or people working on it, and he talked to people on the staff and said release everything you can.

Yes.

Let me ask you a couple questions.

Jim harrington had a slide up, which I think council member riley was referring to the same kind of facts.

Let me be sure I got clear in my head what was the hinge on your legal analysis.

In the meet and confer agreement -- article 16, section 5 d, the words -- harrington had this up on the screen a while ago.

The public release of information shall not contain or reveal evident evidentiary facts or other information from the file.

Right?

That's what you were talking about a while ago.

Yes, sir.

And that's the exception to the rule.

The rule is you can release the whole report but it can't contain evidentiary facts or substantive investigative information.

Unless one of two conditions exist.

Either it's -- it's already public or it's no longer protected under the civil service laws.

Spelman: okay.

--

or -- I'm sorry, or other confidentiality rules.

Okay.

I threw you off track.

I'm sorry.

no, that's all



right.

I've been looking at the parts of -- some of the parts of the keypoint investigation, which were redacted, and it seems to me that a lot of the things which you did redact were not evidentiary facts or substantive investigative information, and the reason you redacted them could not have been these limited grounds.

It must have been something else, and I think you alluded to the something else a few minutes -- in your earlier presentation, but I want to be sure i understand what it was.

Let me read you just a section of the redacted -- part of the redacted sections.

"We believe the actions taken by officer quintana were well beyond merely careless or negligent.

We believe his actions based on his knowledge of the circumstances, his training, his experience and his status as a field training officer were reckless to the point that he need lessless endangered himself, the suspects and the onlookers.

That was redacted.

And it's not obvious to me what evidentiary facts or substantive information from the file is in that statement that you redacted.

I'm not entirely sure how to respond specifically to your question, council member.

I will say that, that, you know, when we -- I believe the part of the report that you're reading from refers to one of the allegations that was not sustained.

Spelman: right.

And so would remain sort of legally protected as part of what we would normally consider file material.

Now, that being said, I think the way we looked at that was that anything in the report that referred to those unsustained allegations --

Spelman: right.

-- Would be included within the scope of what would be redacted, again, kind of relying upon the general confidentiality of backdrop of the civil

service laws, which was the context in which we applied that part of the meet and

confer agreement.

Spelman: okay.

And you are -- I'm just looking at the plain language of the contract.

It said the whole report is eligible for release.

Yes, sir.

except  
evidentiary facts and  
substantive information.

It doesn't say except for unsubstantiated allegations or ongoing investigations.

That's not included in the language of the contract.

It's just facts and  
substantive information.

The only exceptions which are carved out in black and white.

I'm not sure that I would read it exactly that same way, council member, and I think where you get to the

analysis between sustained or unsustained or allegations under investigation is in that section that talks about sort of exceptions to exceptions.

exceptions to exceptions are things that you can release even if they are evidentiary facts or substantive information, right?

You can release --

uh-huh.

except for this, but even if this is true you can still release it under these circumstances.

Yes, sir, that is correct.

so how would the exceptions to the exceptions shed any light as to what you could not release?

It seems to me it would shed light on what you could release.

And the way we interpreted that is -- the meaning we interpreted that to be was that if then the information was no longer protected by the state civil service law privacy rules,

, it dealt with charges that were sustained, then it could be released, but if not, it was still protected.

let me -- let me gloss slightly what you just said and see whether or not this is roughly right.

Despite the fact that we had information in the contract which in black and white looked as though on its face we could release the statement I just read a moment ago, you -- you or your staff, the law

department as a whole, decided to be more cautious than that and go back to the state law, which under ordinary circumstances in the absence of a contractual agreement to the contrary would not allow you to release any of that information because it was still an unsubstantiated allegations or an ongoing investigation, right?

Generally I'm in agreement with what you said, council member, except that I don't think that we felt our exercise was to go

beyond the contract.

We felt that the -- that redacting or excluding from public release those sections of the -- the keypoint report that dealt with unsubstantiated or unsustained allegations was consistent with the contract as well as state law.

it seems like this is a matter of interpretation and it could have been interpreted in several different ways as you mentioned, and that's why the mou cured the problem because all we had to do was not rewrite the contract or amend it formally.

All we had to do was agree between management and the apa to interpret some of these words in slightly different ways.

Am I right?

Yes, sir, that is correct, to come to a mutual understanding about what the parties intended at the time they made the agreement, yes, sir.

Spelman: okay.

So -- at least in theory, you could have chosen to

interpret the contract the way we are now interpreting the contract nine months ago, back in october you could have chosen to do it that way, but you chose not to because it would not have been a cautious or conservative approach?

Nor, council member -- i agree, it would not have been that sort of cautious, conservative approach in light of the fundamental pillars of the civil service law we talked about, nor would it have been consistent with the way we had approached the release of the report on the michael olson case in '07.

on the sophia king case, though, we released the entire report because the report -- you put in your footnote, contained only general factual findings, conclusions or recommendations.

The thing I just read from the keypoint report was a conclusion, and didn't include evidentiary information, and that's because of the ongoing investigation issue.

That is correct.

The other difference in the sophia king matter, as i recall, is that we did not have any disciplinary allegations --

right.

Against officer coffee that were not sustained and so there was nothing to exclude or redact or withhold from public release on that account.

Spelman: okay.

Well, you had to make an interpretation for what the words in the contract meant and you chose a cautious interpretation.

Yes, sir.

I w issue with you.

I probably would have done it differently if I had been in your shoes but I'm not in your shoes and I don't know the things you do.

When you issued the redacted report, heavily redacted, with pages that were just plain blank, how was your department conveyed to the city manager and the police chief, this is the version of the report we're going to be making public, although



we are -- we had listened to your instruction to release everything we possibly could, this is all we can, and it's a tiny fraction of the report, which leaves out all the good parts.

How did you convey that to the city manager and the police chief?

The specifics of your question, council member, I'm just not aware of, and I apologize for not having that factual information for you at this time.

I do not know whether we actually sat down with either the city manager or the assistant city manager sort of on a line by line basis and said, this is in, this is in, this is out, this is out.

I do have the impression that the city manager's office and chief acevedo really relied upon the law department to make that judgment, and frankly there is language in the meet and confer agreement that kind of gives that responsibility to the law department.

after the release was made, did you -- to your knowledge, did you hear anything from the city

manager or from the police chief saying, gosh, I wish you had released more of that?

Could you walk through your thinking?

Why did it have to be so little of it?

To my knowledge, I don't know anything of discussions along that line one way or the other, whether it was, gee, I'm glad we were able to release this much or whether it was, gee, I wish we could release more.

As I say, my sense is that city management as well as apd, placed reliance on the law department to make the appropriate interpretations of the meaning of the application of the meet and confer agreement.

it seems to me that if I really wanted to release as much as i possibly could, I would have been disappointed with how much you actually believed could be released.

Recognizing that a good bit of -- well, not a good bit but a very large amount, a substantial amount of the meet and confer of the keypoint report really

referred to the excessive  
force allegations those  
being the most serious and  
the other unsustained  
allegations as well, to me  
it would be reasonable to  
expect that there would be  
substantial reductions if  
our approach was, as it was,  
that material related to  
unsustained allegations  
would not be released.

By I see your point, yes,  
sir.

did you write a  
memo or otherwise convey  
that part of your thinking  
to the manager or to the  
police chief, we redacted  
all this stuff because it  
was an unsustained  
allegation or because it was  
an ongoing investigation?

I don't believe we have  
that kind of a paper trail  
and, you know, when we  
looked at that last slide  
this morning we talked about  
how we would approach  
handling the management of  
an independent investigation  
in the future, and I know  
that that will be, you know, part of our consideration. I think we can all see now that that would be a  
desirable piece of information for us to have. and so far as you know there's no paper trail from city  
manager or the police chief saying, what on earth are you guys doing?

[Laughter]

[applause]

so far as I know. Speaking speaking okay. Thank you sir.

Yes. council member morrison. thank you, mayor, and I'm going to be quite quick about this. The one leftover question that I have is in the report that you prepared and the chronology you included the meeting that we -- that the executive session meeting when legal came in, the manager came in and gave us a briefing on the keypoint report and the guts of what was in it, and my question is, and maybe really it's for you, city manager, I'm not sure, is really how do we at this point go about deciding when council is going to be briefed on -- on legal issues that the city is dealing with? Because april 8, of course, it was well after the decisions had been made. We were well into the process. I believe it was before the lawsuit from the texas civil rights project. It might have been after. It was after. But maybe -- I'd like a little insight on to how that decision was made, now was the time to come brief the council.

I think, if I recognize back right, it was a function ever where you-all were at in terms of the litigation in court.

Council member, I'm going to ask ann morgan, our chief of litigation, to respond to that. There was some key events going on in the litigation, and it was a decision that we needed to maybe have a conversation with the council about those key events.

That's correct, ann morgan with the law department. We did a briefing on the sanders lawsuit and that's when this issue came up.

Morrison: okay. I know we're going to have conversation in the future about how all this -- how all sorts of -- in general, how all this will be handled, and I think that that would probably be a good piece of the information, of identifying some standards for when council should be briefed on things, and especially highlighting where the judgment calls are being made. I think that will help all of us understand better, and there are big judgment calls to be made, just as the clients of the legal department, to get council involved in that.

Council member, one of the items going forward is that we're going to look at you know, how we do create more information, provide more information to you about lawsuits, and that particular briefing was a briefing about the overall lawsuit, the sanders lawsuit. In the next 30 to 45 days we're going to come up with a plan that when we look at -- I think there was a question today that asked us how many ongoing lawsuits we have. When we look at those issues and create some guidelines and protocols for how we keep you informed on the front end of those lawsuits, at critical stages of the decision-making process regarding those litigation matters. thanks, i appreciate that, and i realize it's a balance to be had because you-all are very busy in the law department. I think we probably have plenty of lawsuits keeping you busy all day every day. And I just want to -- i really just want -- I think I remember one of our previous mayors, mayor wynn, mentioning that we had been through 251 times one year -- we had been sued 251 times

one year, not a record to be going toward. I do want to just end by recognizing mayor pro tem martinez for reminding all of us today that the reason we're here is because somebody lost their life and really to follow up with harrington's comments of we need more conversation in the community about, you know, the fundamental issues that we're looking for -- looking at here. And I know that all the council members have been contacted by members of the community with resolutions, talking about what are the different standards for use of force that we have in the city, and I think that that should be part of our conversation going into the future too. mayor, I have -- council

council member. I have one last mem question of the city manager and I echo was mayor martinez said and city council member morrison, I've talked gotten calls, and they're usually in the middle of the night, and they say some professional -- some professional staff is on the other end of the line and they say, council member cole, there's been an officer involved shooting of an african-american male. He had -- he no longer lives. He's deceased, and all I can think about is basically the grief of a mother. So I want to make sure we do all we can to protect the city because financial damages are being sought against the city, but to take proactive events so that these don't happen again. So in that vein I would like to ask you what steps have been taken and where are we on the patrol car cameras?

I ASKED chief McDonald to -- in anticipation of that question today, to provide an update. I haven't received it directly, but I'm sure they're prepared to provide a response. Would that be you, chief acevedo?

Good afternoon, thank you, chief, and thank you manager. We have conducted all the research into the technology. We have a vendor that has been selected, and we're in the next two weeks making our final proposal to the city manager to go into procurement, and we're hoping in the july meeting to have something for the council for action to go into the purchase phase of this and the operational phase of actually installing the cameras, starting with our east substation. thank you, chief acevedo. The council has begun discussions about what is it going to take to really start to move the community toward a level of trust where we really are a number one city and not just on environmental issues or affordable housing issues but on people issues. And I think that getting these cameras in the patrol cars as fast as we possibly can will be a major proactive step to establishing the trust.

And I couldn't agree with you more, council member. I just want to say thanks to the leadership to this entire board for giving us that direction, and again, we have done the research into the technology that's available. We have done the research into the cost. We are ready to provide a proposal within the next two weeks to the manager for action in july meeting and shortly thereafter we're going to procurement starting with our east substation. We want to have a phase where we'll stall for a few -- a couple months once we have the entire station to make sure we work out any bugs, when you have an entire station operational, then we'll continue as the funding becomes available.

Chief acevedo, will you make clear that these are the types of cameras that we actually have to depend on the officer to turn on or will these be automatic?

The digital cameras we're looking at will be capturing a minimum level frames at one time, and once they are actually activated, then they can actually go back to -- I think it's -- pick three minutes? Do you recall?

[Inaudible]

back three minutes and actually capture at a very high quality whatever the event is. And so we -- it will remove to a great extent the human error or the human factor in terms of capturing the information. It would have to be a case of an officer actually trying to defeat the system, and you-all know that we now have in our matrix, even with this current system, as a result of this incident, and we know the harm that was done to the public trust, that in any instance with our new disciplinary matrix, where an officer is involved in a use of deadly force and the officer failed to turn on his or her camera without excuse or justification, it will be dismissal from police service. The officers are aware of that, and we're continuing now as a stopgap measure until we get this system to audit our officers on a regular basis through our risk management division to make sure that we have compliance. So we've taken steps now, not waiting until the next incident to really up the ante in terms of violation of that policy. I think this incident, talking to our officers, they recognize that had all three cameras been on like they should have been, we probably would not have had an independent report and we probably wouldn't be here today having a discussion where I think public trust has been harmed. I agree with you, chief acevedo, and that's one of the reasons I pushed for them months ago, probably eight months ago, and so I know that my colleagues feel like we should do this -- I hate to do this, in accordance with the court case, but with all deliberate speed. Thank you.

Thank you. council member shade.

Shade: thanks. Most of -- many of my questions have been asked, including this last one that council member cole asked, but it does -- that is important to keep us posted on the timeline as certain steps are taken to re -- to help us get back the trust that clearly we need to do. I'm curious, though, about the recommendations that were referenced earlier about what the law department is going to do to coordinate the advice. You mentioned some of these things contained in the memo. Do we have a timeline for those? I know they're on the list of things to do but that we really need stay focused on getting those things on --

I think the acting city attorney had suggested a timeline just now.

Council member shade, there are two recommendations where the law department -- we have committed to come back with a plan, and the timeline I've set for the department is the next 35 to 40 days. Those --

30 to 45 days. Those two items, we have said we're going to help rebuild transparency and trust and how we handle these issues. We're going to get those done very quickly, and 45 days is the longest that we're going to take to do that. so 45 days means we should have this camera situation and these issues -- some movement on both of those within 45 days, and I think that's -- that's --

I'm not sure that we can commit. you're not committing -- I'm restating what I've heard, two very important aspects to regaining the trust are going to be these two items, your two to-dos and what chief acevedo was talking about before, and I think it's really important that we think about 45 days, that's right in the middle of our summer and we need to make sure that we stick with that timeline. The other question -- and i apologize because I was trying to make note and i believe that most of the questions that I had on my list have been asked, but i still am not completely clear on why -- you know, what changed on o may 13 that got us to rethink, or to contact the association to create this memorandum of understanding. You know, I know that's a question that was in the editorial page today. It's the question that's been gnawing at me as well. And what changed -- I know sometimes hindsight is 20/20, but why didn't we recognize sooner that we could have achieved this lawful approach to releasing the entire report?

I think a fair way to say that, council member, is that prior to may the 12th we did not have any -- we didn't feel we had any reason to believe that apa had a different reading or interpretation of what the city's responsibility and right was in terms of releasing those reports, other than the way we had been handling it, and it was really, I think, the result of some of the news stories that were generated during that time and some statements made by the apa president in those news articles that prompted us to understand that apa may have a different understanding of what that release language permitted the city to do at that point, and that was really what got us rapidly engaged with apa to do the mou. and so when something like this happens, what is the normal sort of communication that occurs between the association and city management? I mean, between -- I mean, is there dialogue? I know this is one of the other things in the memo that's going to be handled differently with respect to labor relations going forward, but can anybody speak to that? I mean, was there no conversation between any association members and city management during that whole eight months and it never occurred to anybody -- eight or ten months?

Council member, michael McDONALD, ASSISTANT CITY Manager over public safety. You heard the law department talk about how sort of the conservative way that they reviewed -- reviewed the report, but a lot of that has to do with the history. Every conversation that we've had up until this point has been very conservative, even in the inception of meeting -- in the inception of citizen oversight. Early on there was tremendous concern about you know, when something was not sustained against an officer and the protection falls along those lines, and so all along the while, the multiple communications we've had -- you know, i wasn't at the table in 2004 but I was during all the other times, and in those instances it had always been pretty conservative. You know, recently when the article appeared in the paper, I can tell you with all my history that was the first time that I have become aware that they were open to something a little more liberal interpretation of that contract than I had ever heard. and I appreciate that. I guess the

lesson learned here, though, is it shouldn't be a reporter that's asking the question of the association but rather the city that's asking that, or the association not having -- you know, waiting for that question, also, to come forward and offer that. So it just -- that's what occurs to me, and I appreciate that. Thank you.

Mayor? mayor pro tem. chief McDONALD, I WANTED TO ASK You, since this incident happened, and we've gone through this now, have you sat down with the association and gone over the contract in totality to see if there might be some other areas of the contract where we have a differing opinion but maybe we shouldn't or don't?

Well, no, I haven't gone down in totality, because during the negotiations we try to cover that as best we can. The memorandum of understanding that we use, we recognize when we get to the table that we're not going to always get it right, but during those discussions we make our best effort to be sure that we get it straight. But, you know, through time, for example, this would be the sixth time that we'd have to do a memorandum of understanding since we've had negotiations because over the years there are going to be some instances where we don't get it correct but we -- through our ongoing dialogue we both try to have an understanding of what the contract means. Well, I guess for me I would suggest that this is pretty darn significant, and it wouldn't hurt us to sit down and go through the contract, and if we have to go through it line by line, that could be something that prevents this from ever happening again. Thank you very much. Appreciate the briefing. Okay. Council, we have just a little bit of time. 30 for live music and proclamations, and we'll go ahead and get as far as we can beginning with item no. 55, Which was pulled by council member Spelman, and we do have two people signed up to speak. Council member, did you want to say something first? Mayor, perhaps I can shorten the speeches of the people who have signed up to speak. The reason I pulled the items is because I'd like to make three small corrections to the text of the resolution. The way it was originally written was to ask the urban transportation commission to do some work and report back to the council. On second thought, we concluded it made more sense for the city manager's staff to work with the urban transportation commission and stakeholders and report back to us, and so the first of the four resolves on that resolution incorporate that. The second and the third do not, so I'll leave the exact text with the city clerk, but let me just read through how that second and third be it further resolves would read. In the discussion of key performance indicators the city manager is directed to work with the urban transportation commission to specifically explore the and then there is a list of performance measures, key performance indicators, which the manager's staff is directed to work with urban transportation and other stakeholders to work on developing. Similarly, be it further resolved, the third one, in the discussion of the methodology, franchise, city manager is commanded to work on the technology. And the third is, on the final resolution, the city manager will present his recommendations to the urban transportation commission and to the city council no later than September 30, 2010. Removing that deadline of August 10, 2010, which we believe would be very difficult for them to meet. But fundamentally it's exactly the same resolutions, just clarifying that this is asking the staff to develop recommendations with the assistance of the urban transportation commission, not asking the transportation commission itself to come up with them. Move approval of item 55. Of course this will wait on the speakers. The first speaker that we have signed up in favor, Steven Coagle. Steven Coagle. Second speaker signed up in favor is Whitney Cox. Whitney Cox. Do you want to speak? Okay. He's fine. So motion by council member Spelman to approve a slightly revised resolution, and you'll furnish that language to the clerk, second by council member Morrison. Any discussion? All in favor say aye.



Aye.

All opposed say no? Passes on a vote of 7-0. We'll, you know, try to take up item 47. Do you have a priority? We probably won't get to both. I have a comment on both 47 and 48, I realize we have some speakers. As you and I have discussed I have to leave the meeting a little early. I'd like an opportunity to make my comment before the speakers.

Mayor Jefferingwell: okay. We'll begin with 47 and make -- you can go ahead and make your comments. thank you very much, mayor. As I understand it, we have 669 permits outstanding right now for taxicabs, and of those 669 they're distributed in a particular way among our three taxicab franchises, austin, yellow and lone star. What the franchise agreements before us do is maintain yellow and austin with exactly the same number of permits they've got, and then presumably in a few weeks lone star will come up and be maintaining the same level of permits it's got. On the other hand, i understand that we have an ordinance on the books which prohibits any franchise from receiving more than 60% of permits. I understand somebody from legal staff can talk to us about that. Greg, if I could just ask you a couple questions.

Sure. Gregory miller, law department. mill e we have -- when a -- mill e we have -- when a franchise -- miller, when the franchise comes up, I'm not sure the term of art to be using, when we're reuping a franchise, how much discussion does the city have -- discretion does the city have as to the terms of that agreement?

Broad discretion.

Spelman: okay. For example, if we wanted to add permits, move permits, change the terms of the agreement, this is entirely up to us to decide; is that correct?

That's correct, and bear in mind that it might require the modification of other provisions of the code, but that's within your discretion.

Spelman: okay. So, for example, if we wanted to take the yellow cab franchise and remove a certain number of permits from it, for whatever reason, we could just do that, that's not a takings, from our point of view. That doesn't cause -- create a cause of action on the part of yellow cab or any other franchise holder?

That's accurate.

Spelman: okay. Tell me, if you could, about the legal status of that 60% provision.

The 60% provision appears in two places in the code, and the first one speaks to transfers between the cab companies, and no franchise having more than 60% of the available permits can receive permits through a transfer.

Spelman: okay.

The other provision, 324, speaks to the validation of permits, if the city determines that more permits can be released, and basically 60% comes in in that nobody having more than 60% of the permits is eligible to receive permits unless there's notice given to the current franchise holders that there are these permits available and nobody steps up to take them. I was not here at the time the council passed that resolution -- passed that ordinance, but the ordinance basically says we're going to try and keep all of the franchise holders at 60% or fewer.

Yeah. is there -- were you here when this was done? Could you speak to the legislative history or the intent of the council at the time this was done?

I was not here for that. do you remember when that was done?

I believe 2007.

Spelman: okay.

It would have been -- and I understand it, it would have been after yellow cab had taken over the royce permit, and so at that point they were probably over the 60%, so I think it was saying going forward we're going to try to keep their allocation at 60%. this is presumably to prevent one of the franchise holders from having a monopoly position and therefore that kind of market power over the entire industry.

Presumably.

Spelman: thanks. I appreciate it, mr. miller.

Sure. we have -- if we're serious about that market power provision and prevent a monopoly or prevent monopoly conditions from taking place, we have two ways to do that. One way to do that is to ensure when a franchise agreement comes up, that no franchise holder gets more than 60%. And if we're serious about holding the line for the total number of permits at 669, the current number, then that means that yellow cab is in excess of 60%. They previously have 455, and 60% of 669 is 401. That means they got 54 permits more than they ought to be getting if we wanted to hold the line at 60%. So one way to do this is to reduce the number of permits yellow gets. Another way to do the same thing would be to add permits to the other franchise holders. That would be increasing the total number of permits from 669 to some

larger number of which 455 would be 60%, and the way to do that would be to add 90 more permits to the system. So instead of 669 we'd have whatever -- 669 plus 90, is 759. The problem with adding 90 more permits, which is an easy way to go about this, is that we have a certain number of passengers in the system right now. We're increasing the fares and as any economist will insist, whenever it's true, when you raise the price, the quantity demanded is likely to go down. So we're probably going to see a little bit fewer -- a little bit less demand for 7% increase than we did before, and if we increase the number of permits, meaning the number of drivers and cars by something like 13%, which is what an increase of 90 permits would be, that's going to put 13% more drivers out there chasing a slightly fewer number of passengers and all else equal, that means that each of those drivers is going to be making 13% less money. So we have two ways of going about this, one of which is to make a direct adjustment in the amount of permits that we give to the largest franchise holder, yellow, the other of which is to add more permits to the other two franchise holders, if we want to stay within our ordinance and keep the maximum number of permits at 60%, it seems to me the most equitable way to do this is to hold the line on 669, hold the line on the total number of permits and reduce the number of permits given to yellow cab by 54 so that they're getting no more than 60% of the market. Spiller, you seem to want to say something about what I just said.

Yes, council member, Robert Spiller, director of transportation. I want to just correct the math on one piece. 60% is on cabs that are not specifically cabs enabled for persons with handicaps, and so there's about 38 cabs out of that 669 that need to be reduced in order to calculate the 60%. So I would just offer that one correction, if that makes sense.

Spelman: okay. Walk me through this. We have 669 total cabs out there, total permits out there.

That is correct. 38 of those should not be included in the 60%.

That is correct, yes, sir.

Spelman: okay. So --

and so right now the totals stand at yellow cab has 433 cabs that fall into this calculation. That represents approximately 69%. Austin cab has 148 that represents 23%, and Lone Star has 50 that represents 8%, for a total of 631 cabs on which you would calculate the 60%. Since you have been so kind as to walk me through this far, perhaps you could take me to the conclusion. What is 60% of 631?

That I don't know

[chuckle] sorry. that's quite all right. I can do that calculation myself, although it will take me just a few

more moments than doing it in my head. That would have the effect, however -- it would be basically the same effect. If we wanted to hold the line at 60% we would have to remove --

the rest of your --

from the yellow cab allocation.

Yes, the rest of the logic would be as you indicated. council, I may or may not be around when the vote is actually taken, but I believe that if we are serious about 60% and preventing any franchise holder from having the kind of market power that a monopolist would have, and that was our objective three years ago, then the only way we can do that without rather dramatically reducing the income of the drivers is to remove cabs from the yellow franchise. miller has said, we have complete discretion to do that, and I think it would be the equitable thing to do, and if I'm here when we take a vote, that's how I'm going to vote.

Mayor?

Mayor? mayor pro tem. yeah, I just want to add a little bit more information, because council member spelman is right, not this council but a council, in 2006 of june, voted this ordinance in, but at that time with that vote yellow was over 60% on that day. So the council may have contemplated, you know, 60% to not monopolize it, but they clearly voted that day with that 60% provision in there knowing that yellow was going to be over 60% at that time. So, you know, -- while i understand where you're getting -- that the previous council's intent was not to create a monopoly, they voted for the amount of permits that yellow has in their hands right now, and it was over 60% at that time in 2006 as well.

Cole: mayor? council member cole. I also wanted to follow up on mayor pro tems comment because both of us were on the council at that time, and basically the royces went out of business. so -- are you sure it wasn't the 1970s -- just kidding.

[Laughter] and I do know that. And mayor pro tem betty dunkerley actually dealt with lead on the cab issue, and she was really concerned when she was dealing with all three of the companies at that time, and I was too when they visited with me in my office, one of the big concerns, because royce had went out of business, was how do we maintain the marketplace, how do we maintain accurate competition. And so that's basically where the 60%, the limit of 69 kind of came from, and so my biggest issue is that i don't want us to circumvent the utc because I know that they deal extensively with these issues and go through a lot of trouble, I guess, to try to figure out how many trips to the airport, are we maintaining enough of the market share and that type of thing, and as far as I know, you're -- I guess I'm trying to figure out whether your existing resolution, you're contemplating changing it, because it says you're just asking the city manager to take it to the utc and come back with recommendations. And so is that -- is

that still what you're doing? Because you're talking about permits and percentages and.

[Laughter] --

the resolution which we passed a few moments ago which you're discussing.

Yeah.

Is asking the manager to come back with recommendations on key performance indicators which presumably could be used as the basis for ordinances. It might be passed in the midst of franchise agreements, or could be used to provide information which would help us improve the provision of further franchises in the future or at the end of the franchises we're talking about here. So in five years this would be useful information but it also might be useful between five years and now for the passage of ordinances which might mandate performance indicators to ensure that customers are receiving good services from the franchise holders. so your current analysis of the number of permits that the different companies have and suggestions for changes is based on we have passed this and that it may be helpful to make changes as the city manager comes back?

Actually, my argument about the number of permits each franchise holder should get is based on the 2006 and 2007 ordinances and not on the resolutions we just passed a few minutes ago. so are you contemplating any changes in the 2006 and 2007 ordinances?

I would think -- I'm sorry, mayor, we need to be acknowledged. engage in your colloquy but we're not going to be able to get to a vote. We're already past our 30 --

we can answer the question before we leave. If I may beg the permission of the chair to say two things. First, that I believe 60% is a very reasonable number and that if we're concerned about market power for a single -- single franchise holder, 60% is a very reasonable number to set that at. Second, I just did the spiller suggested, and it turns out purely by coincidence the number of franchises we'd have to remove from yellow cab to hit that level is still, in fact, 64. So if I were here to vote on it, I would vote to remove 54 permits from miller cab, miller told us we have complete discretion to do. all right, council, we are going to have to pause this item and go into recess for live music and proclamations. We do have a lengthy session of live music and proclamations, including a memorial day celebration, so we will resume this item after our recess at -- let's say after 6:00 sometime. La guerrilla

<br

good evening, everyone. It is time for live music, as we do every thursday here at city hall. Joining us today is la guerrilla. This is an experimental pop band. They began playing around austin in 2007 and quickly created a buzz around central texas. The band's signature song brings a latin vibe such as pop, reggae and pump. They released a cd in 2010 after electrifying performances at local and regional festivals, la guerrilla has been called the up-and-coming bands on any music blogs around town. So please join me in welcoming la guerrilla.

Thank you. How's everybody doing? Okay? All right.

[Music playing]

[ ?? singing ?? ]no carrierringconnect 57600

[applause] ladies and gentlemen, please stand for the posting of the colors and our national and dominick dixon of the higher dimension church.

[Music playing]

[ ?? singing ?? ]

[applause] please remain standing for the memorial day invocation by army chaplain crossley.

Please join me in prayer. Lord, we pray to you today not solely out of habit or custom alone, but rather we believe the truth of your word, the promises, if we draw near to you, you, lord, will draw near to us. Lord, I thank you for the men who deemed it worthy back in 1868 during the civil war era to designate a special day to honor our fallen heroes, formally known as declaration day and now as memorial day. We pause to remember those great men and women who died defending our great nation. Thank you for allowing me to minister to those brave troops, to go to war with these soldiers and to honor these friends. The bible says that the righteous are as bold as a lion. I pray for continued courage for our troops fighting today, for righteousness that permeates our every beam and for encouragement for family members who have lost a loved one due to military service. Lord, today I pray especially for the hunter and pagan families. First I thank you, lord, for vernon hunter, who retired from a career of superior military service and then was taken so suddenly from this earth by way of a recent accident. Lord, I pray for your grace, to be with the hunter family as they are still very much in the midst of the grief process. Likewise, I thank you for the selfless service of army special list robbie pagan who was recently killed in afghanistan, I thank you for

his commitment to serve -- his example of patriotism. God, may you deeply encourage his families and loved ones during this difficult season and may you be their reservoir of strength. Finally, lord, I ask you bring comfort to those who are still mourning, bravely to those who are fighting, and deep gratitude to those home praying. On this memorial day, 2010, we thank you, lord r, for the united states of america and all of our fallen heroes in this great nation. It's in your powerful name i pray. Amen.

Thank you, chaplain, please be seated. This coming monday, may 31, is memorial day. It's a solemn day, set aside to remember those who bravely served our country and lost their lives defending america. Throughout our history hundreds of thousands of brave soldiers, marines, airmen, sailors and coast guard personnel have made the ultimate sacrifice to ensure our freedom. Memorial day I a holiday to celebrate the beginning of summer or to enjoy a barbecue in the backyard with friends and families. Memorial day is a day for remembering and honoring our llen heroes, for their commitment and service to our country. The men and women we honor today, those who gave all they had and all they ever would have to serve our country and ensure that we can live in a free nation, have our immeasurable gratitude. So I want to thank those who can't be with us here today, and also thank those who wait for them to come home, the families who also sacrifice, those who wait behind also serve. I offer my heart-felt con dole event, heart-felt thanks for your gift to our nation. I would like to take a moment to honor and pay tribute to two local heroes who bravely served our nation, army specialist bobby pagan and chief warrant officer vernon hunter. Bobby pagan was killed in action in afghanistan at the young age of 23 on february 13, 2010. Bobby came from a family of eight sisters and brothers. He was a beloved son, brother, fiance, grandson, nephew, and he was a stellar soldier and a dear friend to many. He was a graduate of anderson high school. He joined the army at the age of 22. Bobby's brother, robert pagan, is here with us today, accompanied with fellow soldiers from his unit. Robert is currently serving on active duty in the army, and robert, we thank you and your fellow soldiers for your service. Vernon hunter was a decorated 20-year military veteran who served two tours of duty in vietnam. He was a husband, father, grandfather and wonderful friend to so many, and although memorial day traditionally recognizes those killed in action, i wanted to take this time to honor and pay tribute to vernon hunter, his family, his commendable 20-year military career and to mourn his tragic loss, which occurred on february 18, 2010 in the irs building here in austin. Vernon hunter and bobby pagan were laid to rest on the same day, february 26 of this year. I offer my deepest deepest condolences to the hunter and pagan families while we honor and pay tribute to vernon, bobby and all of the fallen heroes this memorial day.

[One moment, please, for ]

Mayor Leffingwell: The proclamation reads be it known that whereas the city of austin joins all americans this memorial day to remember and reflect on the sacrifices made by those servicemen and women who have honorably served our country, and whereas it is particularly important on memorial day to honor these heros for their profound contribution to securing our country's freedom and whereas memorial day honors those who have paid the ultimate price for our freedom along with their families who have served and sacrifice to and whereas we urge all austinites to pause on memorial day during the national moment of remembrance established by congress as a sign of our national unity. Now i, lee leffingwell, mayor of the city of austin, no conjunction with memorial day, do here by proclaim may 27th, 2010 as the city cityof austin's day of remembrance. Thank you. This is a gift presented by stint to the bobby pagan family. And

likewise a gift to the vernon hunter family in honor of his service. Once again, thank you. Thanks to all of you. And deepest condolences for your loss. Ladies and gentlemen, please stand for a moment of silence and the sounding of taps.

(?? Sounding of taps ??)

Mayor Leffingwell: Honor guard, retire the colors. ????

Mayor Leffingwell: Ladies and gentlemen, that concludes our ceremony. Thank you for being here.

Mayor Leffingwell: It's now my honor to read a certificate of congratulations to two area high school students who are winners of the clean air force's psa contest. And I think before I read the certificate of congratulations, I want to have deana of the clean air force come up and tell us a little bit about what is entailed in the contest.

Good evening. My name is deanna and I'm with the clean air force. The clean air force is a 501(c)3 and we're the leading nonprofit in the area that works to improve air quality. This year we hosted along with austin energy our annual high school psa contest. The psa stands for public service announcement. And we basically asked the students to come up with their creative thoughts on a tv commercial and try to engage citizens in different ways that they can help reduce air pollution. This ozone season in particular we're facing our toughest one ever. Ozone season runs april 1st through OCTOBER 31st. And so we also ask each of you to do your part this summer. But you will see the winning psa, first place, running on time warner tv stations and you will see both of them on our web site, which is cleanairforce.com. And we are so proud of these students. It shows them with their creative ideas within central texas. And we hope when you see them you are motivated to do something to improve air quality. Thank you.

Mayor Leffingwell: Thank you, deana. So I'm going to say congratulations to josh pasant and also chase cunningham, westlake high school. Josh is from crockett high school. So I'm only going to read one of these because they're going to be pretty much the same, like exactly the same. Except for the name. And it reads as follows: Certificate of congratulations. We're pleased to congratulate chase cunningham of westlake high school and josh pasant of crockett high school for -- josh is first place, so there is a difference. Congratulate josh for taking first place in the clean air force of central texas high school public service announcement contest. Josh created a well researched and thoughtful psa featuring actions and individuals -- actions individuals can take to reduce ground level ozone in our area. We're pleased that josh is taking an active role in educating himself and all citizens about how small efforts by each of us can improve local air quality. This certificate is presented in recognition of his attention-getting ad 27th day of may in the year 2010, the city council of austin, signed by myself, mayor lee leffingwell. And since there are differences, and I don't want to slight chase, I'm going to read his also. Pleased to congratulate chase cunningham of westlake high school for taking second place in the clean air force of central texas high school public service announcement contest. Chase created a well researched and thoughtful psa featuring actions individuals can take to reduce ground level ozone in our area. We are pleased that chase is taking an active role in educating himself and all citizens about how small efforts by each of us can improve local air quality. This certificate is presented in recognition of his intention-getting ad this



27th day of may in the year 2010 by the city council of austin. Signed by myself, mayor lee leffingwell. I told you they were very similar. So I did want to say a quick word about how important this is. Many of you realize that for the last several years austin has been right there on the cusp of non-attainment status designation by the e.p.a. We barely avoided it last year. In fact, we were right on the number, right on nbt below which we would have gotten that non-attainment status. is very likely, probably i would say, going to lower the standard that we have to meet for clean air. And we don't complain about that. We realize that's very important. So as we go through this ozone season, which has already begun, please pay attention to ozone action days and your everyday activities to help us make it through this ozone season and not be designated in non-attainment. Thank you very much and congratulations to both of you.

[ Applause ]

Mayor Leffingwell: We had another contest. This time we had a poster contest for water conservation. As you know, austin has been focused on ways to conserve water for several years now. Back in 2006 the city convened a taskforce to try to figure out ways that we could save a certain amount of water and we did that. We came up with a plan to -- and what we're concerned with at that time and still are concerned with is ways to reduce our peak water usage. Of course those days occur in the summer. Our plan actually reduced peak use by 33 million gallons a day off of that peak use day over a period of 10 years. So we're very proud of that and it enabled us to postpone by a number of years building a new water treatment plant. We are in the process right now of building that plant, but it would have had to be done several years sooner without these water conservation efforts. And now we have launched additional efforts. We have directed our staff, we've had a citizen taskforce working on ways to come up with additional ways to save water. I would say this, our efforts have always been focused on first, mandatory requirements that do not change lifestyles. The mandatory requirements are focused solely on efficiency, efficient use of water and elimination of waste. And then secondarily we have focused on voluntary ways to go beyond that and do things on your own that would also help conserve water and those ways, of course, include things like maybe perhaps changing your landscape or part of it, going out and repairing your irrigation system so that it's more efficient. Things like that. We believe that the bulk of water conservation effectiveness will come from voluntary means because we can only mandate so many things or people get mad at us. So greg, do you want to say a word about the contest?

I would.

This is greg mazuras, director of the water utility.

It was a pleasure to team with aisd on a contest to develop artwork for our conservation program. I must give credit where credit is due. It's my boss, the city manager rudy garza, who suggested we team with aisd. Rudy had a good day that day. We're very pleased that we were able to team up. We have some wonderful winners today. Just -- we'll kind of announce them, but we really appreciate all the schools that participated and the teachers that highlights for not only the community, but the young people the need for conservation. That we're going to use the artwork not just to win a contest, but it's going to be blended into our campaign programs, our media programs. So this work will be seen by thousands of austinites. In addition, all the artwork, not only the winners, but all the artwork, will be able to be seen on stint water

utility conservation website. So if you want to see some really creative work by young people in our community, please go to our website. With that, mayor, we have the big winners and big checks. So --

let's do it this way. I will read the certificate of congratulations for the first place winner and then we'll just give the names for the second and third place winners. So this reads, we are pleased to congratulate mario aguirre from east side memorial service for taking first place in the austin water utilities water conservation school began and poster contest. Mario's creative idea will be used to promote our water conservation awareness among high school students and throughout our community. We are pleased that austin young people have joined the effort to promote protection of our water resources and the reduction of water consumption. This certificate is presented in recognition of the -- in recognition thereof this 27th day of may in the year 2010 by the austin city council of austin, texas, signed by myself, lee leffingwell. .. [ applause ]

here's the check and it's to the school for art programs and other items. Congratulations. Here's your --

[ inaudible ].

[ Applause ]

Mayor Leffingwell: And we also have a certificate of congratulations for our second place winner, carla davis, mccallum high school.

[ Applause ] and a check. Does she get to keep that or is that mccallum? Sorry.

[ Laughter ] finally we have our certificate of congratulations for our third place winner, jose reyes. Jose?

[ Applause ] jose is also from east side memorial high school. That's great, isn't it?

[ Applause ] congratulations to all of you.

[ Applause ]

Mayor Leffingwell: I'd like to introduce mayor pro tem mike martinez for another presentation.

Martinez: Come on up, guys. Good evening.

Good evening. My name is neel rutledge, a member of the texas council for cardiovascular disease and stroke. The texas council for cardiovascular disease and stroke was founded by the 76th legislature of this state to oversee heart disease and stroke in our state. The purpose is to monitor, to educate and facilitate health care in our state. Right now heart disease is the number one killer in texas and stroke the number three. And stroke is the number one cause of long-term disability. One of the things that we also do is we oversee the heart and stroke healthy city recognition program, and it recognizes cities for outstanding work in health care, and there are multiple indicators that we use to do that. One is things like

physical activity. And in austin we have the hike and bike trail, things like better eating habits. And we have things here like the happy kitchen, reduced tobacco use and also decreased response times to heart attacks and strokes. Looking at those indicators, I'm happy to say that austin received the gold status award, which is the highest award that can be given. And we're here tonight to present it to you.

[ Applause ]

I guess on behalf of the mayor and city council and actually the city workforce because they're the ones who make the programs really happen, we want to thank you very much for this recognition.

[ Applause ]

Martinez: Let me allow david lurie, our health and human services director, to say a few words, because it really is his shop that makes it happen.

Thank you, mayor pro tem. We're very proud of being recognized in terms of this gold level for the city. It really is a reflection of work within the city itself, but also among our many partners. Of course, we have several city departments involved, , health department, parks and recreation, but also we work with our community, local businesses, health care providers, our school districts, the sustainable food center. As was mentioned, it's a combination of things that people have access to in our community in terms of our great parks and recreation system, fresh fruits and vegetables for our community gardens and our farmers market. Also the fact that we have a smoking ordinance so that we have smoke free environments and an exceptional emergency medical services response system. I also want to recognize sabrina mccarthy, who is our lead within the health and human services department who has really been instrumental in all this good work. Thank you so much.

[ Applause ]

I'm sabrina mccarthy, a health educator with austin travis county health and human services chronic disease prevention and control program. I had the joy of working with so many community partners that work everyday to control heart disease and stroke, to prevent heart disease and stroke. If anyone wants to look at the report, I brought it!

[ Laughter ] this is an exact represent replica. But this report, even though it's so huge, it does not capture how much we have in austin and all of the people who work to control and prevent diabetes. So please support your local farmers markets. Please access all the physical activity resources that we have and stay healthy.

[ Applause ]

Martinez: Now we know how to stay healthy, carry a book around that weighs three times as much as you do.

[ Laughter ]

Martinez: Okay. We will now be presented with the qvs award of merit.

I need the crew up here because they're the ones being honored. Thank you. It's an honor to be here today, and I am very honored to be able to make this presentation of award to the city of austin for qualifications based selection, we effective communication nationally know it as qbs. It is a means by which to procure professional services thais established by the federal government and the state government and is to be followed by any of professional services within a public entity. My name is kent o'bryan. I am the president of the texas society of professional engineers. I am a professional engineer. Up here with me also is keith jackson, who is the president of the central texas chapter of the texas council of engineering companies. This award is a representation of both of these organizations, and it was established by nspe, the national society of professional engineers, to recognize public agencies that make exemplary use of the qbs process. At all levels, the state and the local level. The city of austin was nominated for its strict adherence to qbs for professional service procurement. That includes professional engineering, it includes registered architects and professional land surveyors. And I also want to give a special thank you to reese bayer, she was the one who took the bull by the horns and made the nominations and did all the work to submit for the award for the city of austin. Thank you for doing that. We believe the city definitely is deserving of this award because it has strived for many years to ensure the selection process complies with the very spirit and the very intent of the texas professional services procurement act. Which strictly up holds the qbs process. The city of austin's professional services procurement process i believe is superior, far superior, to most other cities. And for that matter many other states in this nation. In the process -- and the process involves the professionalism and the consistency of its application as well as that of the staff which you see behind me, as well as -- and this is very more than because the qualifications based selection process is an important aspect to support the small business and the minority business programs of which the city of austin does a tremendous job of supporting within their programs. The evaluation panel that is typically utilized by the city involves professional engineers, registered architects and registered land surveyors as appropriate to the type of contract that is being advertised. As well as other city staff. They work hard, they review up to -- I was talking with rosie truelove who leads this group -- sometimes over 60 proposals for different contracts. And if you've ever done that, it's a very hard and enduring process. They develop a short list and then if needed they conduct the interviews. The top teams then are recommended to the city council who votes to approve them. Rarely does the city council vote differently than staff recommends. Which is a good thing. And very much appreciated by the professional engineers who work very hard in this city day after day. We appreciate the opportunity the city affords the professional service group in this city, and the input they have in their process. We look forward to a continued successful relationship with the city staff and council, and i am -- I am even more honored because it is this city in which I workday in and day out and help to make it better. And I'm very honored again to be a part of making this award to the city. Thank you very much.

[ Applause ]

once again on behalf of the mayor and council, thank you all so much. I do want to bring up rosie truelove, who will properly recognize the folks that are the reason that we are able to receive this recognition. Rosie?

Thank you, mayor pro tem. My name is rosie truelove, I'm the division manager who helps to lead this group who is receiving this award today and I want to recognize the staff that are here with me. The group is led by supervisor debra divell. We have project manager edward campos. Project manager

(indiscernible) ellis. Project manager tony lower. Project coordinator shan in a parker. Project coordinator lower in a williams. Project manager daniel rivera. And compliance specialist matthew. And a couple other contract compliance specialists that couldn't be here tonight, mary lou and cagrette williams. I want to thank the staff for coming and I want to thank our management, our director. Mike trimble and rudy garza who are so supportive of this program. And especially our client programs, our sponsors, and the evaluators that come and serve on our panels. As kent mentioned, it's a very time consuming and lab just process and they're all very dedicated to that. I want to thank them, as well as kent and keith for coming out and giving us this award. Thank you very much.

[ Applause ]

Martinez: Moving right along -- [ applause ] I am now going to present a proclamation for the city of austin to recognize city of austin employee safety month. If you would join me, please. be it known that whereas the city of austin recognizes the importance of health and safety of its employees and its duty to provide a safe and helpful work environment. And whereas the city also recognizes city of austin employee safety association and the city occupational safety and health network and leading forces in employee safety advocacy. And whereas the city of austin employee safety association is coordinating and promoting citywide activities related to the national safety council's annual observance of national safety month, now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim june 2010 as employee safety month.

[ Applause ]

I'm shelly buck man and i am the president of the employee safety association. I'm going on my third quleer and thanks to my wonderful team of members who have nominated me again to be president. We are very busy and active every month. We provide safety trainings throughout the city to the employees on a variety of topics from heat stress, emergency preparedness, evacuations, fire, safety. And we also provide an annual safety conference out at the lrc by the airport. This is our third year to provide that conference without a budget. Of course we're going to work on that, right, mr. martinez?

Martinez: Yes.

[ Laughter ]

I've asked every year and I will continue to ask. And we are very happy the last two years we started with 250 people attending. 400 The second year. And we're hoping to meet that 400 again this year and provide an array of training on suspicious packages, weather emergencies, ergonomics and the like. So we appreciate the city's support and all of our team members, which I do want to announce who is here with us. We have about 100 members. Of course on an evening it's hard to get everybody here with families. But we do have edna. We have sharon warren. Marcia fowler. We have joann cowan. Tony maldonado, david tally and mark medley. Thank you so much.

[ Applause ]

Martinez: All right. Now, the last proclamation of the evening I will turn it over to councilmember cole.

Cole: It is my pleasure to present to you the teacher of the year. Ms. andrea sanchez.

[ Applause ] and I have three boys, and they are 14, 16 and 23. And a janitor from the elementary school, robert estrada from lee elementary, retired today. And we were on the dais and I could not go because I was going to bring him a proclamation. So I am mentioning his name because I did get the proclamation sent, but that was very important because my youngest son threw up everyday.

[ Laughter ] so I am crazy about teachers. So this is a certificate of congratulations for having been selected as the 2009-2010 aisd teacher of the year. Andrea claire johnston is deserving of public acclaim and recognition. johnston has taught language arts at reagan high school where she considers her students the, quote, miracle grow that keeps her joyful and vibrant. Reagan is truly blessed to have such an enenthusiastic and passionate teacher impacting their lives in a positive way each day of the school year. She's an asset, an inspiration for us all. Congratulations.

[ Applause ]

thank you very much. On behalf of reagan, i really appreciate this. I'm very proud to be able to represent reagan in such a positive light.

[ Applause ]

Mayor Leffingwell: Is steven cobell in the chamber? Welcome, steven. And you have three minutes.

[ Inaudible ] you are pretty well familiar with where I stand on that. It's a blanket approval i don't approve of without certain conditions being attached to that. I think that's basically all it comes down to and really all I have to say. Thank you.

Mayor Leffingwell: Thank you, steven. Whitney cox has also signed up against, and does not want to speak unless there are questions. Mayor pro tem.

Second.

Mayor Leffingwell: Martinez moves approval of item 47 on third reading, seconded by councilmember cole. Any discussion? All in favor say aye. It passes on a vote of four to zero with councilmembers riley, morrison and spelman off the dais. That brings us to item number 48, which is pulled by councilmember spelman who is off the dais. And I would say that he will be off the dais for the rest of the meeting. He's on official city business attending a national league of cities conference out of town. So in that -- we will go to the people who are signed up to speak on 48. The first speaker is steven cobel. Steven has signed up against. And you have three minutes. Do you know what you're speaking on?

Sorry. I was under the impression that that was combined.

Mayor Leffingwell: It's not. Sorry.

Basically I reiterate, not in favor of the franchises being renewed without certain conditions, stipulations placed on the franchise. I believe the council is fully familiar with what I'm discussing. You each received a fax to that effect. Have a good day.

Mayor Leffingwell: And item 48, just for clarification, is on -- to renew the greater austin transportation company, d/b/a yellow cab, franchise. The other one was for austin cab. Second speaker is jeffrey jones. Jeffrey jones. Jeffrey jones is not in the chamber. Mayor pro tem martinez moves approval of item 48 on third reading.

Cole: Second.

Mayor Leffingwell: Seconded by councilmember cole. Any discussion? All in favor say aye? Opposed say no. That passes on a vote of six to zero with councilmember spelman off the dais. That brings us back to item 33. And as previously announced, public comment will be limited to 30 minutes for those opposed and 30 minutes for those in favor; however, each speaker will be limited to three minutes or the time donated to them. So, for example, if there are only three speakers in favor, they would only get nine minutes on their side. So if any councilmembers want to ask question of staff or make comments before we go to the public hearing? -- I mean the public comment period. First speaker against is debbie russell. Debbie russell. Is linda green in the chamber? Linda green. Linda green is not in the chamber. So debbie, you have three minutes.

Thank you very much. I wanted to speak specifically to a process and especially in terms of the public safety commission who was charged with reviewing all of these documents and making recommendations to the council. And in that effort there were several promises made of deliverance of documents by certain dates and there were a few early drafts, but essentially in march we were told that the public safety commission would review the privacy policy and then make that recommendation. They haven't seen the privacy policy until this week and that was already after the recommendation they made. In fact, instead on the interlocal. That interlocal agreement -- the interlocal agreement has changed dramatically several times even since the public safety commission recommendation. I think we just need to take heed of this and understand that when we have our commissions make recommendations, they're making recommendations on certain versions of documents. And when very impactful items come up that

are going to affect the community in very great ways, I think we need to make sure we have a finalized document for the commission to recommend before it goes to the city council. And in that I wanted to also mention if you weren't already aware by my many posts to you, six commissioners voted to send the interlocal to you guys, and one did not. The one that did not was the only commissioner that actually read the document. I really can't say much more about that other than I would have done my homework. Thank you.

Mayor Leffingwell: Thank you, debbie.

[ Applause ] next speaker is john bush. Mary anderson? Is mary anderson here? No. Bruce burden? Bruce burden. Gabriel bigger?

He's actually going to use his time for his own.

Mayor Leffingwell: You're signed up for the item, you realize. So are you declaring against?

[Inaudible - no mic].

Mayor Leffingwell: Okay. Chuck thomas? So john, you have three minutes.

[Inaudible - no mic].

Mayor Leffingwell: What is your name?

[Inaudible - no mic].

Mayor Leffingwell: Rob love. Okay. You have six minutes.

Okay. I probably won't use it all. Thank you, council. My name is john bush, the political director of texans for accountable government. I want to thank you for those of you who met with us and those who didn't I want to thank your staff for reaching out and hearing us out. I want to talk about the process also. I'd like to also thank chief carter and christie orr. They've been very receptive in meeting with us and have applied quite a few of our recommendations. That's definitely a good thing. But I wanted to talk about the process just as debbie did, something that debbie didn't mention is a lot of the fusion center stuff actually originated with the urban area working group, which is administered with the task of fulfilling the grant of the urban area security initiative. And we recently found out last month that the urban area working group isn't even under the open meetings act. So while the mayor chaired that meeting, we the public aren't even privy to any of the information that gets discussed there, any of the federal agents that go there. Another big revelation that we had yesterday upon receiving this document right here, the investment justification, and this is what ignited a big storm because we found that they had actually originally slated for there to be a medical, health and -- a public health and medical analyst, which apparently has been backed off. But we spoke with a lot of the council and none of the council outside of the mayor, I assume, has been familiar with this document being on the you are an area working group. I think that's a major



problem working forward with the fusion center, as you're well aware of, in the past the fusion center has been abused quite a bit in other states. I think if we fail the austin public by going through this process, through the urban area working group, which is closed to the people, which is rather unfortunate. This is where many of the major policy decisions are getting discussed on what this fusion center is going to look like. Moving forward if there's any possibility of actually opening up the urban area working group we think it would be great. Another thing on the public safety commission, I think it's been an utter failure. Unfortunately as debbie said, we're only certain that one of the public safety commission members actually read the document before voting upon it. Actually, we are certain of that because they received it right before they took the vote that afternoon. And just watching them i didn't see one person read it. In fact, I don't think anybody had it in their hands. That's a major problem when this public safety commission is created in order to give the people more voice with their city council and also to act as a mediator between the austin police department and these public safety issues. It's definitely something that needs to be addressed. I'm not sure how you guys can do that. Also with the blood draw issue that we took up earlier, two of the members had to abstain because they hadn't read what they were going to be troat voating to recommend. We wouldn't be here at the 10th hour debating all these last minute changes if the public safety commission would have done their job. We could have vetted it through them and given you a product that was closer to being finalized with the approval of the people of austin. Another thing is the external and internal audit. Obviously light now I don't need to say why, but the people are not very entrusting of the austin police department to do a proper internal awlt. If there was an external audit done, we're not sure if -- who is to say they're going to ignore it because they don't agree with the findings on that one. That's another problem that needs to be addressed that still hasn't been addressed in the interlocal and the privacy policy. Speaking of the privacy policy actually, one of our major biggest concerns is the fact that the privacy policy is now what's called a living document. And it's going to be entirely administrative. It's where the bulk of the action is here within this document. So we still would like to see the council have say over that. I'm not sure if there's some sort of legal problem with the city manager, but that's a primary concern of the people. Even going further, back to that grant document it talks about challenge mitigation. It encourages the austin police department to focus on the privacy policy, not on fact that there will be non-criminal information potentially collected. So we think that's another dishonesty. Also you will see a video later. The whole process has been sold to the people like it's going to be based only on criminal information. Well, we're pleased that the public health component was taken out, but still a primary concern we have is the suspicious activity reporting, which is based on non-criminal information. For example, if somebody were to be taking a picture of criminal infrastructure like the 360 are bridge or whatnot, it's here that that information will be collect the and retained for two years each if it investigated and found that there is no investigation to a crime or terrorist nexus. It's a major concern of the people. Just to throw out also, you did an arizona resolution, so I hope that the austin regional intelligence center doesn't share any information with the arizona center for terrorism information analysis. So we're calling on the people to delay the vote to delay today. We understand that this has been going on for two and a half years, but again the issues that have already lined out in addition to a lot of the other ones that we spoke with you personally on, we feel it prudent that on such an important matter as the fusion center, again which has been abused time and time again in the past and again people aren't confident in the austin police department's ability to manage such power to manage such power At this particular point with the climate in the community. We think it would be very strongly -- if you guys were against to delay this so we can stop, slow down a little bit and get this stuff

vettted with community. As I said before, the urban area working group, which really got the ball rolling on this, and outlined much of the policy, is closed to public meetings. It's a very big problem. And a lot of troubles have risen out of t we hope that you voigt to delay and stand with the people on this issue. Thank you.

[One moment, please, for change in captioners]

is karen rennik in the chamber? Jim stutesman. Gaye bigger. Dave, you have three minutes.

Thank you, council. I want to quickly thank council member morrison, councilmember spelman, councilmember randi shade as well as councilmember riley. They had time to sit with us. Our group has visited over 11 different fusion centers where those directors actually shut down fusion centers to give us a tour and take the time out of their day to explain to us a little bit about what their facility does. With the remainder of my time, I would like the to give y'all just a little glimpse of what the city of austin thinks about the fusion center, based on some interviews and a little information regarding the way it was sold to the public. Thank you.

Are you running a ..

[ Silence]

on criminal intelligence, which means it will collect information and analyze information and disseminate information that is based on criminal predicate meaning they have to have reasonable suspicion that a individual has broken the law, while all along we said hold on it is an all hazards fusion center, meaning not all crimes, meaning there is a potential of a public health component which is a major concern for a lot of texas residents. Well we got a hold of the investment justification for the department of homeland security urban area security initiative grant. This is it right here. We have been trying to get it since last week and basically what we found out as we said all along in contradiction the austin police department has been saying over and over it is based on --

and the arrest reports an instrument reports, there has to be a criminal predicate in order for it to be in the system as part of the privacy.

Part of the information is we cannot take to a criminal court and get a prosecution on. We cannot use that information because it would be suppressed.

We have -- we will soon have online an automated license plate reader. I take it that won't be automatically tied into the --

no.

[Indiscernible] that is not predicated.

It has to be predicate to specific criminal activity or reasonable suspicion of criminal activity.

[Indiscernible] will be developed but the information gathered will only be criminal information.

It's about people that are suspected of actually committing crime ares.

We will not make the same mistakes, because our ultimate goal is not to be victor but to focus on crime prevention which we see

[indiscernible] in terms of criminal threats and crime prevention and really to connect some dots and hopefully solve crimes.

Well the grant application and investment justification, we find actually state's participation in the ..

Is that it? I knew all of those people in that video, okay. All right. Next speaker is freddie childress. Fredly. Freddie. Okay. We will go to benjamin ware. Benjamin, you have three minutes.

Thank you. I am a member of operation defuse, along with kathy tran, over the past two and a half weeks we visited three fusion centers, we visited the colorado state fusion center, washington state fusion center and oregon state fusion center, as well we also -- we discussed privacy policy as well as practices in those fusion centers and got tours and also all of the california fusion centers, we have gone over the price policies the last couple of weeks and I want to talk about accountability when it comes to the fusion center in austin, aric. Right now, we don't have the accountability in the department that we really need. We don't -- in seattle, in their fusion center, they have -- they have a clause in there that allows the fusion center to criminally prosecute a member of the fusion center if they break a law or infringe on certain constitutionally protected rights and immediately, no matter what, if they break any privacy policy issue, they are -- any employee is immediately fired and after talking with chief carter, I found that -- or at least from what he tells me, we can't just throw in a clause that would allow the privacy policy or interlocal agreement to be criminally -- to be legally binding to where they could criminally prosecute somebody but the state legislature could. So we are going to be addressing the issue with the state legislator in the next term and we are going to try to get criminal -- criminally binding information -- or criminally prosecutable things in the agreement, but it's unfortunate that we haven't been able to really see much of the interlocal agreement. We just got recently and it's already going forward, even though we don't agree with a lot of the information that is in there and so we really are begging you right now to -- to just hold off on pushing this forward because ther is -- there is so many documents that we haven't even really had time to go over and really understand what they mean. We haven't had time for lawyers to go over a lot of the same -- and really understand how to make a fusion center work. In the -- in the grant document that john actually talked about, there was the mention of best practices, where our fusion center went and looked at other fusion centers to look at what the best practices of fusion centers are, and I don't think we are reaching many of those standards at all with the current privacy policy and interlocal agreement.

[Buzzer sounds]

it looks like my time is um. Thank you.

Thank you.

[Applause].

Next is jim sutsman. I believe I called him before. He is still not in the chamber? Gabriel bigers, gabriel bigger.

[Indiscernible] there.

He spoke as gabe bigger, you signed up as gabriel this time.

[Indiscernible - no mic]

[laughter]

[indiscernible - no mic].

The next speaker is claudia smith. Welcome. You have three minutes.

Good evening, councilmembers. I am claudia smith, executive director of the citizens commission for human rights. Of I am here obviously opposed to this fusion center and the development of the aric. I understand, also, that there has been a number of incarnations of this agreement and the proposal itself, so i will speak to the last one that I was able to review. I understand that they have taken out the public health and medical records portion of that, which is a good thing. In our experience, when you start talking about information sharing across agencies, and especially of this magnitude, there is a number of red flags: The privacy civil rights and human rights of the general population is at risk when this happens. It's ripe for abuse and especially with -- one of the major weaknesses is there are no penalties other than taking the agency out of the loop, which isn't good enough. There is -- there is nothing that really holds anybody accountable if they violate anybody's human rights or privacy rights or civil rights. What we would like to recommend is that you hold off until there is a better examination of this whole process. There has been a lot of disappointments with how it's been handled and we think that it would be terribly irresponsible to move forward without putting in more controls and more oversight into this -- these fusion centers. Thank you.

[Applause]

next speaker is gavino fernandez. Gavino not in the chamber. Clinston smith, not in the chamber. Mathew simpson. Mathew simpson. Okay. Mathew. You have three minutes.

Hi, I am matt simpson from the aclu of texas and appreciate the opportunity to speak to y'all. I just want to talk obviously about the interlocal. I really wanted to start at the beginning and what is it that people worry

about with fusion centers? How is it that fusion centers violate civil liberties and privacy in other places and that goes without accountability? Well, the bottom line is, the accountability isn't there. No one is ultimately accountable for what happens in fusion centers or it's very difficult to hold people accountable. So this is the -- this is the basics why tag, aclu and others got involved with this is because we want to know who is holding the keys to this we want to know who is directing the fusion center and if errors occur we want to have the transparency to find out about them and accountability. What we have right now is interlocal that has general principles in it but not specifics about how privacy and civil liberties will be protected and I understand there is a problem in some ways of having a document be approved by this body and also delve into the details, so what we need is a document that deals with the privacy and civil liberties issues through this body and then -- and then once those are nailed down and protected, then the center will make its own operating policies in compliance with that. I don't think we are quite there yet I don't think this interlocal does that and it doesn't incorporate the privacy policy. It is still changing. It changed yesterday, in fact, as I understand it. To -- as a separate point, the external auditing is one thing that has not been nailed down, what external auditing will look like and I think that's something we need to know. There are definitely different models of how to do auditing and how it's done makes a big difference. I guess I will just close with, there are a couple of ways to do this. There are a few ways that we can ensure that the aric is what we want it to be, but as it is now and without changes, we have fallen very short of being the model that we thought we would be. We entered into this process -- and I say we, I say the aclu and apd and everyone else here. We entered in this process a long time ago and we have been talking about ways to make the aric work but what this interlocal has is a rough outline. We haven't moved this ball forward if this interlocal ball were to pass. The other problem with the process as it's gone along really is for -- well, as late as March 11th, both Chief Carter and Chair Lauderdale said the privacy policy would be vetted by the public safety commission. As you know, you have not gotten any recommendations regarding the privacy policy from the public safety commission and I am disappointed to see that that step was not I think it was an important one. I will stop there and be glad to answer any questions if you all have any.

Thank you.

[Buzzer alarming]

[applause]. Ka ka ty brewer, Katy Brewster. Travis Naveley. Not in chamber. Doc Goose. Doc Goose not here. Mathew Gutierrez? Mathew Gutierrez? Catherine Bleje? Rita Quinn? Are you Catherine Bleje?

[Indiscernible - no mic]

Rita Quinn? Mercado.

[Indiscernible - no mic]

that's what I aming now, to see how much time can be donated to her. Mathew ben. Okay. Michelle kiunonosa, so it looks like you have 12 minutes.

Okay. I don't think I will need that much but thank you, my name is cation when bleje a new resident of the austin area. I came here from missouri. I founded a project called liberty restoration process and we focus on privacy as well as state sovereignty and I became involved with fusion research after the information analysis center in missouri profiled he as a potentially radical violent that accomplish I can't member because of my political beliefs so those fusion centers have a very intimate impact on my life and that puts me on a track of in depth research. I partnered -- with organized up with tag and we have been traveling the country, visiting fusion centers and speaking to people in their communities about fusion centers and how they can get involved with them and thankfully in missouri we were successful in having that report i mentioned that profiles people like me that supports various political ideologies, that was retracted and we went through four legislative hearings with our state legislature in order to get this situation dealt with and it is an ongoing process, we are still dealing with it up there. I have moved down here, but our organization is still focused on that. Unfortunately, no one has been held accountable to that. Yes, the director of the fusion center lost their job but got moved to another department, still having a taxpayer funded position and the repercussions of that document are still reverberating throughout the nation right now and so I want to speak to concerns I have with this fusion center moving forward today and I want to ask that you all consider the gravity of the vote you will be making if you do choose to move forward with this, I fear it is in haste and I feel that you may regret that decision because the opportunity for even more scandal to rock the austin area is huge. If you consider that in arizona, we were told by their fusion center staff that if you are planning a rally in arizona, they will run your name in a fusion center without any criminal predicate, although a criminal predicate is what they are supposed to be based on, correct. The maryland state police through their fusion center entered 56 antiwar activists in a terror data base and oklahoma they visited this year, they said other then them, there were two other fusion centers in the nation that had privacy policies that were accepted by dhs so that shows you that the privacy policy y'all have been working on down here, it is a living document and it may or may not be as constraining as some of the activists here originally thought. Especially considering most fusion centers operate without one and in the seattle fusion center there was an analyst who was assigned there by the but he worked for the state fusion center an he spent two years infiltrating an antiwar group to the point he was managing their databases and sitting down intimately in their meetings. I am not trying to say that anyone who works for the austin police department or anyone here locally has bad intentions but the fact of the matter is that these fusion centers are riddled, completely with scandal after scandal after scandal, and it is fraud, misuse and i think you all, as the representatives of the people of this community owe it to them to do them the service of properly vetting this fusion center before you move forward and potentially put people at risk. And it goes further than that, not only was i profiled for my political beliefs by my government in my state and I have to fight to have that retracted but because of that fight, the southern poverty law center, an institution that does training for fusion center staff has now my face and name on their website, a website designed to identify people who commit acts of violence and hate and are racist and that is not me at all. Those are the people who get paid by the dhs to train fusion center staff on how to identify potential threats. Is that what we want to be doing here in austin? I am moving down here. I came down here in february. I plan to be a long-term resident of austin. I left one community that was treating me, i felt, very horribly because of my political beliefs through the use of their fusion centers. I

don't want to come to another community like this, and when you consider that you guys do have no refusal weekends, where you do take blood from people forcibly, when you consider just a week ago that grant application still was calling for the fusion center to assist in the implementation of rapid inoculations in the case of a mass crisis, it begs me to question if you are willing to forcibly take something out of my body, how am i going to know willingly, forcibly put something into my body and I don't think law enforcement or fusion center have any role in that whatsoever.

[Applause]. I want to feel safe around my law enforcement community and I know that there are good people who work in the austin police department. I have talked to many of them since I moved down here. I know there is people in the missouri police department as well. But unfortunately, since 9/11, which keep in mind it was the 9/11 implementation act of 2007 that gave legislation backing to dhs to start creating fusion centers, i encourage you to check that out, that made the 9/11 commission record and gave it legislative backing. Now, when you talk to law enforcement, people who got involved with law enforcement after 9/11, these are people who either, for the most part were deployed to iraq or afghanistan and are used to using facial recognition technology, iris scanners, the time of technologies that not currently used here in the united states but these are individuals that are over there learning to use this stuff on people who are not protected by the constitution, particularly since the patriot act came about and one of the things we discussed in oklahoma, there is some good old boys who grew up working in law enforcement, before typewriters, before computers and this technology is coming around, and they say, well we don't use that technology and what we brought to them is, the question, what happens when a young kid who has been using this technology all over the globe takes your spot? That question was answered when ben and kathy visited the portland fusion center and a young veteran accepted the position fusion director and he said to ben and kathy in front of their privacy attorney, I thought i had a new toy, I was going to get to play with this new technology and use it in creative ways and they have a privacy attorney with a leash on this guy. That is something we need to consider. Just because the people right here right now don't have the plans or the intentions to use this fusion center in a negative way doesn't mean the people who come up after them won't and it doesn't mean that we shouldn't be doing everything in our power to make sure that everyone is protected adequately from some potential abuses and misuse. The last thing I would like to leave you with is my concerns with any community that is tying themselves to the department of homeland security. I am sorry. I find them to be unsuggestionally operating department of the federal government, first of all. Additionally if you consider that our country was founded on the principles of federalism, a decentralization of power, that is not what this fusion center would do. It would centralize information. It would centralize authority and power. Have you considered that sheriff mack when he took the brady bill to the supreme court, they came down with a decision that said the federal government cannot dare if state and local law enforcement. Dangling money and saying we will give you bells and whistles and we will share information with you, i find that is completely up appropriate. I think it is completely contrary to the constitution of the united states.

[Applause] and while they may not be commandeered it is basically bribery and when you consider there are reports that have come from the department of homeland security that have not been retracted, report that is call people like me a potential right wing radical extremists, the report that says returning veterans should be considered threats, those reports will be sent to the fusion center, just like all over the country, bear in mind that report has not been retracted. Do you want to tie yourself to that? These fusion centers

impact the lives of everyday citizens. I learned that the hard way and I can give you story after story about the negative things that come from these fusion centers. There is positive things, too, i understand. Communication is something that is needed between departments and agencies, I understand that and I think there is a role for that but the two things I would like to ask for you all to consider, one, please take your time with this. Make sure before you move forward, the people in your community are protected. I don't want to move from one state where i just got done dealing with the fusion center scandal to another city that I am sorry is already riddled with scandal and I don't want you guys having the authority -- but not you guys as individuals be as an institution, having the authority to collect information and track information and share the information and some fusion centers share information with private companies and with foreign government. I don't want that authority given to someone who, an institution is already proving that they cannot check themselves adequately. I think there is some problems that need to be dealt with here locally before we start centralizing even more power and more information in more than one place, so if you could, please consider taking your time on this and making sure that people's privacy is respected and that there aren't things that almost flip through, like the fact that \$100,000 is allocated for a medical analyst. That bid almost slipped through and if it wasn't for the diligence of the people in this room, it may have gone through, but the people in here are working hard because they believe in this community and they gave up an entire day, some people were here with their kids from 30 because they cared and i hope through your voting, you do, too.

[Applause] the last thing I want to say before I walk away is just to consider, that right now, we are funding our own oppression on the backs of generations that may or may not have the choice to live a day without surveillance cameras, retinal scanners and they may not be able to have the choice because of this decision we are making today. I hope we choose wisely. Thank you.

[Applause].

Thank you. That's all of the time that we have allotted for those speaking against the items. All of the others and there are several others who have signed up against not wishing to speak and one or two who have signed up wishing to speak but used more than their 30 minutes, so we will go to those in favor of the item, beginning with carrie roberts. Is carrie roberts here? Delwin goss. Saw him earlier, not in the chamber now. Lori rataria. Lori. Rob caruthers. Rob caruthers. Gloria morales. Welcome, gloria.

Thank you very much.

You are signed up in favor and you have three minutes.

I am a simple citizen with simple words and a concerned citizen. I identify crime when it hits my backdoor, when it hits my family, when it affects me, when it affects my community. Government agencies do not report to the general public all crimes. Perhaps. I don't know. If we did, we might have a heart attack or fall faint or short of having a livelihood that would be healthy because we would not be able to sustain the crime that does occur. We house 501 studios, fifth and 35, I cannot even walk out of the building without having to call apd to help me walk out my door because they have what they refer to as the mopac train bandits. It is no longer the hispanics jumping trains, we have people in new orleans, potential abuses,



potential law enforcers, yes. Check and balance system? I am against police officers drawing blood. However, I am against crime. Crime means identifying violence, crime. We have not decreased in crime. We have increased. I want to be safe. I want to be safe. I want you to identify gangs, criminals. I do not want the national guard called into our city because we cannot identify and arrest gangs and criminals. The fusion center would cooperate with all of the different agencies. Yes, there is good, there is bad, but there is good and bad even in activists -- there is people that stand for what they believe. I believe that we need to have a system to identify crime. We need to have a system where it's not

[indiscernible] to the leave the reality in their streets. It's not a free for all. The city of austin, it is about people suspected of committing crimes and committing crimes repeatedly and repeatedly and other agencies not having that information, provide information. I am a simple person. We depend and defend ourselves but we do not know who our criminals are. Criminal should and would be defined and established. Identify repeat offenders. Identify who is gathering the information.

[Speaking spanish]. If you don't have anything to fear, why can't you have our system identify the criminals? Privacy rights abuse is set. Currently they have the general public. The general public has publications that show who is arrested and everything. You pick it up at the stop and go, at the convenience stores, dah, why can't our police officers and agencies identify them? Thank you very much. I am a simple citizen saying yes, identify the criminals. I do not want to have to walk with them -- did -- I want to walk in the city. Thank you.

[Buzzer alarming] th th ank you, gloria and that is all of the public system that will be taken on this item. And we are open for discussion. Mayor pro tem.

Yes, there were some questions that were to be asked and chief carter had me ask questions on his behalf, and the first question is can we define what kind of external auditor we are contemplating bringing in to give assessment and operations handling at the center?

Mayor pro tem, david carter, apd, the question you are asking is about the auditing, correct, the audit process? Some of the speakers that were against mentioned the fact that when you look across the country, there is 70 some odd fusion centers. They mentioned there was two that actually had privacy policies. It is our belief there is a total of 15 that actually have certified privacy policies, so they are actually growing in that number. Our proposal is to do a peer to peer audit. The reason that you can't allow just anybody to audit the informations that actually in the center, because basically that is analyzed criminal intelligence that has -- ask law enforcement sensitive, but you can have a peer to peer system with a vetted group from some other vetted center and that's what we are proposing to do is use that peer to peer auditing process.

Okay. The second question was prior to council meeting apd agreed to remove public health language from the privacy policy. See the language is still included in section 5, specifically on page 6, section 7, subdivision 1, will you remove it?

That language actually has been removed in an error that was provided as a backup. That was an old there was a corrected version there. But I would like to speak briefly to the council a little bit about the process of the recent changes involving the privacy policy. We reached out to advocacy groups probably early last fall, late last summer to help us look at the concept of privacy policy constructs. We worked through that -- that process all the way up through the spring, including the mandates of this body here, the council to visit with the public safety commission and others. As recently as about two weeks ago, I met with John Bush and Chuck Young of Texas for Accountable Government. We had an hour and a half meeting along with Christy Orr to look at some of the issues and concerns they had and things they brought forward appeared to make sense to us. However, we had to vet that, make sure it passed legal muster, but there were recent changes and the recent changes occurred based on the request request and interactions with stakeholders I think they were concerned with. So the document that actually -- that the councilmember Spelman may be actually referring to was replaced one that removes the public health information, because that was clearly something that we didn't actually comprehend, but in the body of the interlocal document, you are basically bringing ten law enforcement agencies together to share information so the analysts can basically develop criminal intelligence. That means something for a police officer to act on regarding, you know, preventing disrupting criminal activity, and so that public health piece, we understand where that was coming from once we realized what they're looking at was back two and a half years ago when we had the grant and the health department was looking to get analytical health in their field and the things they currently do and that person and that entity will not be in the regional intelligence center around when John Bush and Chuck Young brought that forward, we worked to remove that language.

Thank you, chief. Thank you, mayor.

Councilmember Morrison.

Morrison: Thank you. I know that has been a long process for everybody and I want to talk about the balance -- acknowledge the balance here and it has been spoken well and Dale and Mary are net and there is a lot of community activism trying to address the issues we have that are affecting our neighborhoods and they have been much in favor, I believe, of the fusion center and trying to balance them on the other side of that, making sure that we do it in a way that reaps the benefits but protects the citizens, so finding that balance is the challenge that we have all been trying to work on. I, too, share the -- some of the process concern that is were raised. You know, it's been worked on for a long time and as happens often with city council work, things start to heat up and get changing really fast once there is a deadline and this is a very important thing. It's important that we get it right and it's definitely something that's happened this time around. One of the big issues that has been discussed is that the interlocal agreement is what is in front of us tonight as councilmembers to approve, and that the privacy policy is a separate document now and is not subject to council approval. It's just subject to the executive committee's approval and the executive committee is the chief -- is comprised of the chief of all of the different partner agencies. So the concern has been raised that -- that -- that we, as councilmembers and the governing bodies of all of the -- of all of the partners really should be accountable and responsible for anything that is a policy. Now, having further discussion with you all, as I understand it, the reason -- if I understand, the reason the privacy policy was pulled out and separate was

so that it actually could stand on its own and be read on its own and I can respect that as a goal, but what happens, was that -- excuse me -- I also need to add and because it was operational in nature, that you are adding all of the operation -- the detailed operational things, which are administrative, I understand that, so that we shouldn't be -- we shouldn't be overseeing administrative things and neither do we want to, but what really happened, I think and we just had a good conversation about this, is that some policy that's beyond operational and administrative things ended up in the privacy policy and were not also in the interlocal agreement. In fact, a lot of the interlocal agreement stuff is in the privacy policy, that is fine. But additional policy elements so it is readable made it into the privacy policy, so what I just spent some time working with Matt Simpson and John Bush and Christy Orr with our legal department, trying to identify where those policy issues were in the price policy that didn't also exist in the interlocal agreement because my concern is that I want to make sure that we have accountability for all of the policy issues. If they're only in the privacy policy, it is the executive board, the chiefs that have control -- have sole control over them. So we just went through a little exercise and I think we could gain a lot more comfort and a lot more reasonableness in how we approach this if we go through and actually take the elements of the privacy policy, that our policy, not administrative that don't yet exist in the interlocal agreement and put them in the interlocal agreement and that's what I am going to propose that we do and I worked with -- as I mentioned, with Matt and John and Christy, to pull those out, and I would like to just quickly identify that we would -- I would like to make them -- I guess I will be making a motion that we approve the interlocal agreement with this amendment and that is that we add a new section, that would be section 5 called collection limitations, and in that section, we would copy over from the privacy policy section 5c, which actually sort of identifies what data you are going to be collecting. Section 5d, e, and f, those were the specific items that we found in the privacy policy that were not administrative in nature, were policy statements and were not yet in the interlocal agreement.

Councilmember, I think I am in fully support of that motion in the sense I am going to visit with Christy real quick, but the whole premise behind the privacy policy as well as the interlocal agreement is its foundation is based on 28cfr23 which those particular sections address and those I am in certainly favor of anything that strengthens that position. I would also mention to the council that you basically are the leading governing body over this center in the sense that all of the other nine jurisdictions basically will follow suit based on this particular -- how this document is drafted and we will carry that forward. We are on somewhat of a time line crunch here, but we will carry that forward, pass the message from the council to the other jurisdictions. Christy, could you come up real quick? That was a motion?

Yes, I will add some other small modifications.

Councilmember, I would also suggest looking at I under the same section because it is a pretty broad policy.

Morrison: Terrific. I would like to add I to that, then, and this is with the full intention that we will be able to give you enough information so that it can be -- we can approve execution tonight and you will have all of the information.

Okay.

Mayor Leffingwell: Is that it?

I was just waiting to see if -- I do have something else, I was waiting to see if Laura has any comments.

Councilmember, we do not object to that at all.

Morrison: Great. I appreciate that. One of the other issues that come up was the privacy policy advisory committee which is a great addition I think that has been made recently to the interlocal. There is no -- there is no statement in here, at this point that tells us that any of the meetings of the advisory committee would be open to the public. Would there be any problem with -- obviously there are going to be some things that can't be open to the public if they are discussing certain information. Would there be any problem with a statement that said, the meetings and activities of the advisory committee will be open to the public with appropriate provisions for sensitive information and legal requirements of confidentiality?

Part of the process that we've gone through, really, has been to kind of look at the issues of transparency and accountability. We have seen those errors from the other fusion centers that were I think in general our thinking is the privacy policy advisory committee which is spelled out to be specific folks from the advocacy groups and other folks who have a varied interest in this outside that group, I have no problem with their meeting. There may be time when the executive board needs to meet with them. If it is a sensitive issue, we have to think about how that process is. We have also stipulated there would be an annual review of that privacy policy, that the privacy policy advisory committee go before the safety commission or city council or governing bodies, whatever the preference is on that, and they do that along with the executive board and that -- that obviously is an open forum.

Morrison: Okay. So that statement would be okay if we --

I will defer to law.

Morrison: And sorry I didn't get a chance to chat with you before.

No, that's -- there would be no problem with that. The commission is a body of people probably -- I don't imagine that they would even see confidential information at any point in time but that safeguard would be fine.

Morrison: Great. My motion is going to include the addition of section -- so this will be to the interlocal agreement, section 5b, to add a section e that said meetings -- that says meetings of the committee will be open to the public -- excuse me, meetings and activities of the committee will be open to the public with appropriate provisions for sensitive information and legal information of confidentiality.

We are okay with that, we hope the privacy policy committee establishes their own rules and the process once they are selected by the governing body.

Morrison: I understand. It says they will be developing procedures and I want to make sure we have assurance and I also would like to note that there is a section in the privacy policy, obviously that would need to be updated to be consistent with this, but we are not approving that tonight so it's not important. And then just one small other item and that is with regard to odyssey auditing section. I just want to make sure that -- I know that it's going to be reviewed by the city of Austin public safety commission, the auditing function. I just want to make sure that we, the council, will be informed of what the review is, so I would like to add some language that says, on that sentence, the external audit function process will be subject to review by the city of Austin public safety commission with a report to Austin City Council.

I think that's fine. I think also that may be under the purview of the public safety commission, but however you want to do that is fine.

Morrison: That would be great. So those are -- that's my full motion, mayor pro tem.

Mayor Leffingwell: So the motion is to add a new section 5? 5 With -- with -- with limitations to what?

Morrison: New section five called collection limitations. Collection limitations.

Morrison: Where we will be copying over from the privacy policy section five sections c1 and 2, d, e, f, and I.

Mayor Leffingwell: So moving the collection limitations from the privacy policy to the interlocal agreement section -- moving from the privacy policy sections 5cdef and I to the interlocal agreement and adding language in 5b about the privacy policy advisory group.

Morrison: Right. And, in addition, add a requirement that the public safety commission report on its reviews to the city council.

Morrison: That's correct. Seconded by mayor pro tem. Is that right, mayor pro tem? Any further discussion. Councilmember Riley.

I have a couple of questions. Chief Carter, first I want to thank you for the work you have done with this and especially for [indiscernible] and I want to thank those in the community as well for their efforts in helping refine these documents. I know it involved a lot the last few months and I really appreciate everyone who has made that happen. Just a couple of questions about it. And there are really things that have come up in my conversations with people who are interested in this. One question that came up is related to the financial reporting. There is folk who has interest in, like, suppose a year from now -- a year or two from now, if someone wants to see -- wants to track how the money -- how the funds for this agency have been spent, what can citizens do -- how will that information be made available to those who are interested in seeing financial reports from the fusion center?

Councilmember, the current process is that any time you accept a federal grant, like a U.S. type grant there are strict reporting regarding finances and those are actually tracked, and the way we do that is we

actually report that to the city budget officer and so i don't think that there will be any problem, perhaps on an annual basis, to provide that information from the budget office to the safety commission in an open forum if if you you would like to do that but we have very stringent financial auditing requirements.

And that can be made available to the public safety commission?

Yes. It is possible.

And another question came up about partner agencies. Right now the interlocal identifies the partner agency as right in the opening paragraph. Some concerns have been raised about whether in the future the partner agencies could be expanded to include private corporations. Can you help us understand, is that possible? Is that going to happen?

That -- number one, that is not the intent, nor could it actually happen without coming back for council to approve an amendment to that particular interlocal. The private sector or any nonlaw enforcement entity is not planned to be in that but our understand we would have to come back before this body to bring them in for approval.

Riley: Okay. Thanks. Co co uncilmember shade. Shade.

Shade: Who determines what is appropriate? I don't have a version of it, it may be in the text -- I am sorry -- who is going to determine that? What is appropriate?

To transfer over?

Shade: Yes.

I sat down a while ago with christy orr, john bush and matt simpson and what we did was a page by page comparison, looking in the privacy policy, see what was in here that was policy level and not strive that was not yet in the interlocal agreement and so it was the four of us that sort of sat down and identified these pieces as what's missing in the interlocal agreement.

And if I can interject, also, we are not actually simply moving. Those pieces will remain in the privacy policy. We will just put a duplicate inside the interlocal agreement. I reviewed them so the language in there regarding some of those federal protection and the prohibitions against, you know, profiling people based on their religious preference or racial issues that are some of the mistakes that occurred in some other centers won't happen. We are leaving it nut privacy policy but we want the duplicate it and bring it into the interlocal.

Thanks for clarifying it. We realize there is redundancy between the two and we will live with that redundancy. Thank you. Anything further? Chief, all of these changes, you have expressed, your opinion, you agree with the? In other words, all of them are acceptable to you?

They absolutely are. They accomplish the objective. The austin regional intelligence center is about intelligence and we have to do a better job of sharing information. We have a lot of challenges ahead of us. But we also know that we have to maintain our foundation which is those constitutional requirements. So we don't want to run afoul of that and we are very much in favor of those adjustments and working with the community as well. Thank you. Councilmember morrison.

I was neglect in saying that john bush is with the conley for federal government and -- AND.

Mayor Leffingwell: I think we did know that. All in favor say aye. Opposed say no. Passes on vote of 6-0. Councilmember spelman, off the dias. Now we will go to item 56. We have a number of speakers signed up. Council, without objection, we will limit public comment on this item to 30 minutes as well. And we will start at the top. The first speaker is debbie russell. Richard franklin. Anne delyonno. A number of people donating time. Brian rogers, kathy krin. I don't see kathy. Jane rogers. Anne, you have 12 minutes.

Thank you, mayor. Mayor, council, my name is anne delyano and i rise to vote neutral on number 56 tonight, thank you for your input. I am attorney and live in east austin on east 13th and practice family law a block away from the courthouse. The issue today is performance evaluation ott, our city manager who is directly responsible for the police department, the legal department and the police civilian oversight system. I was involved in the creation of our police civilian oversight system back in the late 1990s. That was after unarmed gregory stene was shot in the police in the back from 60 feet away in a residential neighborhood while he was running. Yes, his skin was black. It was also after the police brutalized guests at family parter for 14 year old children on cedar avenue. Yes, their skin was black and it was after decades of call for civilian oversight in austin dating back to at least the 1970, I was blessed to volunteer on behalf of aclu and worked in colation with in double acp and the national lawyer's guild and mayor leffingwell, before on city council, you stood up here in city council and asked for police accountability, speaking to the council with us. Councilmember spelman who is absent now made the motion on the dias when he was in city council the first time that brought civilian oversight to austin. Councilmember riley, you were early supporter of the sunshine project for police accountability and we thank you for that, it was back probably when you were founding the austin neighborhood association and councilmember morrison, back when she was president of the austin neighborhood council, was gracious enough to have me and others come and speak to the austin neighborhood council about police accountability and she did a great job with that and city manager michael mcdonald you were ass is at that point police chief back then and intimately involved in the policeover sight system, that was since -- since then we worked with chief art acevedo about the observation, and i worked with ashton cumberback and we worked with legal starting when brown was a city attorney back then. They formed a police oversight group and a city council atomic force and internationally recognized neutral or facilitator who donated his time, roy butt was on, other lawyers, professors, a diverse group of citizens, all of the meetings on channel 6 for the public to see so they could comment. We had public hearings an days an days of meetings over months of time, national experts to talk to us and took a trip to bay area so we could witness five five other civilianover sight systems at that time and we reached complete agreement, the agreement that doesn't look like anything that we have today. We did all of that for a reason, so we wouldn't have to be here today doing this. ott, our paths have not crossed yet except for one time when you gave a speech at houston tillitson, and you can see the speech at com and you reminded us in 1928 the city maid a

consultant to answer the question, quote, how do we deal with the negro populations in austin, after which city government took systematic action to create the racial divide, that is ih-35 and at that time, you ott, I find an interesting dichotomy here in austin. We take a great pride on patting ourselves on the collective backs about a heightened level of sophisticated sensibility that we have about owl sorts of things and yet I find when I think about the course of my career over 27 years, I find i observe probably the hardest demographic line I have ever seen. You also said the disparity, the great divide, the other side, the other austin is conspicuous and everybody knows it. You also quoted mlk junior, saying, quote, this generation will have to repent not only for the evil words of bad people but for the appalling silence of good people. And then you said we should not be silent and ott, you also said one of the reasons you are here in austin is not to be silent about the eastside-west side disparity. Now, some citizens have lost their trust in their city leaders, everyone can watch highlights of a citizen's meeting object occurring last week to discuss that at the com, the video at the top of the hope page.

[One moment, please, for change in captioners] test blank.

Because it changes nothing, but in their legal memo to you last week they state on page 10 that release of the report would not have been possible with you the mlu. Which one is it, city legal? 3, city legal tried to say the report was so protected by law that even you are elected officials could not see the tax funded study, yet the police chief is emailing your report out to his drinking buddies at will. His friend in california was more profane in his comments in juvenile -- and juvenile than any juvenile I've ever represented in juvenile court. I'm pretty sure the city didn't tell the attorney general that the chief had already sent the report out to his buddies. Who else did the chief send the report out to while keeping it from you? Who else did the man in california send it to? Jim harrington wanted to point out that the chief action release thag document appears to be a jailable crime under texas local goverment code section 046 by violating civil service. There are several levels of solutions that could allow us to someday get to the real issues, which is saving austinites' lives. Number one, there are solutions that are possible under the current contract. Number two, there are solutions that would make civilian oversight meaningful by changing the contract. 3, there are solutions that city council can put in place directly. On number one, under the current contract, civilian oversight could have meaningful public input. Right now the public doesn't get any facts so they can't have public input. Number two, there could be at least information from for the review panel. The monitor himself cannot access information, and that's not how it was intended. 3, policy review can be undertaken by the current oversight system, such as the preservation of live standard or the flawed video camera policy that's currently in place. The video camera policy allows officer to access the videos anytime they want and allows them to turn them on and off. That was 101 best practices ten years ago and it's not in place today that they can't access those videos. You could also, city manager, under current policy, ask the chief to wait for the investigation to finish before he announces his conclusions in public.

[Applause] and finally you could ask the chief to refrain from violating everything that was just talked about by city legal by sending confidential documents to whoever he wants to. The solution would make it meaningful by cheenging the contract. ott you're responsible for negotiating that contract. You decide what the city's priorities will be in the contract. In 2012 the contract will be renegotiated but it can be amended at any time. All of the legalese gobbledygook that we've heard all day today is completely



unnecessary. A wall of suits sat down cross the table for months to contract the language in that contract, and they all speak english. The contract language is undecipherable on purpose. Notice that all the pay and benefits language is very clear. ott, we need you to completely understand that contract and set simple, clear priorities for changing it. Number three, there are some solutions that the city council can take into their own hands. Mayor, you and the council can place police civilian oversight under your control, like it is in almost every other city that has civilian oversight, so that the public can have input regarding the system through our elected representatives. Put the civilian oversight into a city ordinance. Those of you who observed that this system is broken, like council member morrison, are correct, and each one of you owe it to us to fix it. As always, I offer myself as a resource if I can help to resolve any of these issues in a way that will truly benefit the beautiful people of austin, texas. Thank you very much for your time. thank you.

[Applause]

freddie childress. Council member morrison? yeah -- yeah, I did, I had a quick question. council member cole. all I can remember is lawyer. You're sitting next to brian, what's your name?

Ann delanio. yeah, you spoke about the billion oversight in other cities reporting directly to the city council.

What happens in most other cities, civilian oversight is in a city ordinance, and the difference is that if it's in a city ordinance, you as elected officials can design the system. And that's the way it is in almost every other city that has it. Happened is that the police union when they formed it schnookered us.

No, I was just curious.

In orlando they passed an ordinance to the civilian oversight system that them subpoena power, and that's an example of something you could do, if you wanted to put oversight to the ordinance level where it should be. What we have now is civilian oversight is negotiated by two fives, that don't have the public interest at heart at all. The city is trying to protect itself from lawsuits, and that's their job. It's not improper. It's that they are trying to protect themselves from lawsuits sitting at the table. On the other side is the police union, who is trying to protect the police officer from any allegations of wrongdoing. So the citizens don't have any interest at that table. That's why the contract language is gobbledygook when it comes to our rights.

Thank you.

Anything else?

No, that was very helpful.

Thank you very much.

[Applause] freddie childress. Verna smith. Verna, you have three minutes, and this is a total of 15 minutes of our allotted 30 minutes for public comment.

Good evening. Thank you very much. Earlier today I was listening to the conversations about the cameras, and I just want to say, this issue is not about cameras. It's about excessive force. At this time I'm neutral to this agenda because there's been so many things that's been covered up about the sanders case, and not open to the public. In november of 2009 the austin police hosted the national police monitors convention. At this convention keypoint explained how they came to their conclusions of the report. All t medias were there, and one morning i 00 in the morning and I saw this tape being shown on xs television. This tape is out there and it's being concealed. If the taxpayers had paid \$50,000 for the report, why we can't see the video of keypoint speaking at this convention. One of the things I would like to ask the city manager and the mayor, and of course I see the police are not here, but what I would like to ask, did anybody at any time sit down with keypoint and ask them how did they come up with the conclusions they came up with? Because earlier, leffingwell, you said that it was not an investigation but it was an analysis. it was an analysis.

It was an analysis, right, and I disagree. We don't need to pay \$50,000 of taxpayers' money for an annalization. And if this tape cannot be produced, can the city of austin find sons to bring keypoint back and let keypoint explain how they came up with the conclusion one by one, because it's not fair to the citizens to pay \$50,000 for a report and then not understand exactly what it is and why -- and how keypoint came up with the conclusions that they came up with. And it seems very strange to me that you guys wouldn't want to know how they came up with the conclusions. Does anybody on the panel know? Has anybody ever sat down with keypoint and asked them how they came up with the solutions -- with the conclusions? I guess not, but don't you think that would be important for the citizens, tax-paying citizens? Thank you. time has expired. Thank you.

[Applause] so council, I'm not reading out any for or against or neutral on this because actually, nobody even knows what's in the resolution, so I don't know how they could be for or against it. So I'm just going straight down the line. The next speaker is beverly lazar. And stella wells. Stella wells here? You have three minutes, beverly. Stella wells? Are you in the chamber, stella? Is that you, stella? Okay. You have six minutes.

Thank you very much. Before I begin I wanted to thank councilwoman cole for her remarks earlier when she was presenting the teacher of the year award because i am a retired teacher.

Very good.

New york city and aisd and those words were really appreciated and touched my heart. Council members, mayor leffingwell, city manager, marc ott, my name is beverly lazar and I'm here today to address item 56. -- on august 11, 2008 i sent you a copy of a letter that was also sent to police chief acevedo. I sent it registered mail, receipt requested and I have the documentation with me and I'd like to pass out copies to the members of the board and mayor. In point of fact, I am still waiting for a reply. In this letter I was literally begging for help. I wound up being assaulted on two separate occasions by a

neighbor. I looked to the police to help me, beat cops, detectives, supervisor of one of the detectives, and eventually the police monitor's office and the citizen review panel. All of it blew up in my face, and I finally sent this letter to marc ott. I became motivated to tell my story yet again after following the tragic events of the shootings of that nathaniel sanders 2nd and smith and the events following this tragedy and had it not been for those events I would not be here tonight. City manager ott says that he's dedicated to transparency, but despite warnings, public outcry, a lawsuit on the matter, he rolled with the tide on this or directed it to some degree. He said upon smith's firing that he knows -- david smith's firing, that he knows he was responsible as manager but that he's not a lawyer, but I truly believe that he does have the option of hiring outside legal opinion and failed to do so. He didn't put into motion any proactive strategies to take the lead to get ahead of the situation, and I felt like it was a situation of stonewalling. City manager ott oversees everything, including employee matters, operations and administrative authority, internal organizational policies, so I feel that the buck stops with mr. ott. To say he can't get involved in apd personnel matters is frankly ludicrous. The fact that the actions of officers can open up the city to lawsuits dictates he must oversee such. Even if one could argue he doesn't have say in internal apd personnel matters, there's undisputedly one person there he can hold accountable, and that is police chief art acevedo. On day one the chief said, and I know this was said earlier, but I think it deserves repeating -- on day one the chief said he thought that the initial shots were legally justifiable. ott do or say to him after? Why didn't he tell him to correct himself right there at the press conference or the next day even. The statement should have been publicly retracted. He can't be loyal to the investigative process and give us the ultimate conclusion on the first day something happens. I find this very -- a very problematic pattern. ott given chief acevedo any verbal or written warning on these things? These are just some of the actions that city manager ott executed or failed to execute. And as I said earlier, had it not been for my own horrible experiences with the austin police department and chief acevedo and the police monitor's office and the citizen review panel, i don't think I would be here tonight, but I think that the overriding factor was smith and nathaniel sanders. Thank you very much for your time.

[Applause] next speaker is stephanie collins. Is stephanie here? And stephanie, you have three minutes.

I'm stephanie collins, and I'm also a pakistan practicing attorney. I'm not actually speaking as an attorney. I'm speaking as someone who's absolutely sickened by what's happened. I want to know who's going to answer for what happened to nathaniel sanders. ott, if it's not the mayor, if it's not the police chief, who is it? Because it has to be somebody or a group of somebodies. You can't just keep us running around asking who's going to answer our questions, where are we going to get the information? The jedy mind tricks haven't worked, we're not going away until we get some answers.

[Applause] ott getting any more compensation or more benefits or, you know, satisfactory job performance, nathaniel sanders' life was worth a lot more than a \$50,000 report that you threw in the trash.

[Applause] and if it means that nobody gets a raise this year, that's fine with me and fine with everybody else in this room, I bet.

[Applause] tain ward? Connie? Charlene harris? Charlene harris? Rosie williams. Right. So you have six minutes. And that will be all the time allotted for public comment after this speaker.

To the council, on the approval resolution, the compensation benefits for the city manager, and also for the evaluation performance considered compensation benefit for the city manager issue I want you-all to take into consideration the evaluation. When you take him behind doors in executive session and hold him accountable for what he did, not only marc ott, chief acevedo, on the death of nathaniel sanders ii, you knew the information, how, and what time, on what accountability are you holding each one of you all? Because you sit behind that portico in your fine suits and your fine attire, you are still held accountable. You answer to the city of austin. You answer to its citizens. You were elected for the citizens of austin. My question is, how -- why was not quintana fired in the beginning? When did you know the keypoint information, as this gentleman spoke, so much up here, lawson, to compensate us and pacify the citizens of austin so that I'm not held accountable. You're passing the buck. The council chambers are passing the buck. You want to give them the responsibility, the liability, it's not on city council, it's not on chief the police, it's not on marc ott. You-all are wrong. You're all held accountable because you knew something at a designated time, just like everybody else left keypoint. So you all need to be held accountable. With the state -- when you said the state law, the executive privilege, the g file, sustained information and unsustained information, what you can use and what you can't use. That's -- that's -- it's nothing more than a cover-up with the city of austin, and it's not -- it's not right, and it needs to be stopped. All you-all are doing, you just don't want to be held accountable. So it needs to be taken into evaluation and the analysis, winfelled, you said the analysis -- at keypoint, the analysis and not an investigation, why would the city of austin pay keypoint \$50,000 to do an analysis on another investigation and it needed to do a clearer and more precise investigation? That doesn't -- that does not even comprehend knowledge. And so when you can kind of -- you can -- you can look at the minority citizens, the black citizens, the black and hispanic citizens who are already in the system, when it comes to the [inaudible], they're going to be penalized the most because they're a minority. It's a biased situation and when you stated that the arizona state law because what arizona is doing is asking for papers, please, that you're documented citizens, you're doing the same thing with the fusion law. If you want to hold anybody accountable, if you're going to hold the citizens accountable, you can look at the citizen and say he's criminal just by the way he look, then you need to take into consideration the police officers who stop and give the ticket, that feel like this person is the criminal, then they need to be subject to the same fusion law that the citizens of austin are subject to also.

[Applause] so in the form of discrimination, marc ott, i mean, wake up. The hispanic citizens, our black members, our blab council members, we the citizens, black and hispanic, need our voices heard, not somebody to sit up there and hold your hand on the seat and not make a comment and give us your voice behind these porticos. Ask yourself, are you being fair with the law? No, you're hiding behind the law. We want to hold wall street for cheating the united states out of their income and their tax brackets? What do you think we feel like, your citizens, when you are duly elected, sworn under oath to represent the citizens of austin. You're not doing that. You're making a paycheck, giving it to the privileged ones who come up here and say, this is why I need this money and I want my organization open. \$10,000, Over ten -- we need money for people, for our black -- that's why our black and hispanic people are locked up in jail, incarcerated every day, to stop, and it's not a equal playing field on the law. No, ma'am.

Fusion, you're before that, right? It's not fair, and I hope you-all will take into consideration that we've been pushed out of east austin, just in the houses that we can't even afford. We've been discriminated against because we don't have the financial backing to even stand up and give ourself a voice. You want to push yourself under the rug and you don't want to hold chief acevedo, marc ott, not one council member wants to come forward and say we made a mistake. You want to cover up the situation and put it on keypoint, and you put the city of austin, the most liable lawsuit, in austin, texas, and you represent the citizens, you represent a portion of the citizens, and by not being scrim that the discriminatory, but the majority are white and well endowed to come before this chamber and say this is our request. We want it made. Well, we the people, the underprivileged, that don't have the money, don't have the time to come up here and argue with you-all that we needful representation of the law and respectfully, this is something you need to take into consideration. I appreciate your time and thank you.

[Applause]

mayor? council member cole. I simply want to say that anytime there is a death -- that's okay. You stay right there. I just wanted to let you know that anytime there is a death or injury of an african-american, especially a male or hispanic or white, an officer-involved shooting, me and my colleagues are sorry. Thank you.

They need to be held accountable.

Cole: no, you're right. I didn't want you to leave without hearing that, because you asked, did we wear. Yeah. Council I, that is all of the public comment for tonight. The floor is open for discussion or a motion on the resolution. Council member shade. well, evening that the comments today just in light -- the comments that were just made, in fact, really highlight just how complicated and difficult the job of city manager is and the complexity of this organization, and we -- it's hard to consider a year's evaluation at this time, but we wanted to take it in context of the entire year, and I think it's also important to note that we look at comparable cities and that our city is one that -- it's a two and a half billion dollar enterprise, unlike any city in texas, it has an electric utility and a water utility that's part of the operation, an airport, a convention center, 10,000-plus employees serving 800,000 citizens, all who have transportation, public safety, parks and recreation, health and human services, economic development, and I could go on and on, needs. And so it was really challenging, I think, for this group because we've taken very seriously the comments of the last -- of this day, and I think that in the context of the conversation we had about the comprehensive plan as well as clearly the opportunities for improvement, that were so well articulated by ann earlier, show there lots of room for improvement. This was a hard year. These are tough economic times, and when we went into this annual evaluation discussion, back session with our city's chief executive, we had a very productive -- very productive discussion and discussed very candidly what's going on and what needs to get better. I mentioned earlier sort of the structure of the city, but I think for those of you that don't realize, most major cities are council/manager form of government and that's especially challenging, given the fact we're a growing changing city, with a highly involved group of council members here as well as the citizens at large and we we communicate with the city manager, the chief executive, is probably the most important responsible we as a council have as the governance. It's the most important stated in the charter. And the administrative responsibilities are for the city manager.

As I said, it's a very complicated -- very complicated organization, very challenging job, and it requires a high level of professional experience. When the council and city manager have shared vision that's clearly communicated, it saves citizens time, it saves them money and all kinds of other resources, and it makes it possible for great things to happen, and it makes it possible for -- and when that doesn't always work as well, we have more difficult, challenging situations, some of which have been highlighted today. But ultimately where we came out after that discussion is that we know that there are many opportunities for improvement for all of us here at city hall, but we believe that overall our city manager, marc ott, has performed his duties well this past year. He's demonstrated a sincere dedication to the work of this city and in particularly challenging economic times, and his leadership has resulted in our employees really having to step up and do more with less. And overall, the citizens have benefited from a city that's running well. We did talk about some of the highlights and I think it's important to put those in the record, the commitment that mark has demonstrated to opening the budget process to the public earlier than ever, allowing citizens to voice their concerns and priorities in that process, making some critical hires, adding new leadership to the existing team, and he's seen to it that our city aggressively clab rates collaborates with foreentities, to oh federal spending on housing, and social services this year and he brought forward \$118 million in planned transportation and public works projects while putting a transportation department back into place. And we do thank mark for his hard work and dedication and we do feel fortunate to have somebody with his experience serving as chief city administrator and we wish to pass the resolution in front of us which extends his current compensation and benefits for another year. I think it's important note that mark wouldn't accept a raise given the uncertainty of the current economic conditions, and we put a caveat or a proviso in this resolution that we will look at that issue when we get into the budget process later in the year. And with that I will make the motion that's in front of us. We have the idea on the yellow sheet. motion by council member shade, seconded by council member cole. Any further discussion? All in favor of the motion say aye.

Aye.

Mayor leffingwell: aye. Opposed say no? Passes on a vote of 6-0, with council member spelman off the dais. And that, council, concludes 10:00 a.m. items.

[Laughter]

very nice.

Without objection, council will recess this meeting of the austin city council and call to order the meeting of the austin housing finance corporation board of directors. And would you come up -- are you representing the hf -- and you can take us through the agenda. I assume these are all items proposed for consent?

Good evening. My name is betsy spencer with the austin housing finance corporation. Item 1 is approval of last month's minutes. go ahead and read all three of them as part of the consent agenda.

All right. Items 2 and 3 are both 31 on the austin city council agenda, which passed on consent this morning. In short, we are proposing to transfer the administration of the holly program from the neighborhood housing community development department to the austin housing finance corporation to allow for a streamlined internal process that will expedite purchasing and procurement procedures to address repairs in a more timely and efficient manner. This requires an amendment to the contract between the nhcd and ahfc, which both entities must approve. 3 seeks the board's approval to award contracts to two construction firms to begin work on the 20 eligible homes. This will allow staff to immediately address substantial repairs and rehabilitation work on homes in the holly program. so, council, the consent agenda for the austin housing finance corporation is items 1, 2 and 3. Is there a motion for approval? Council member morrison moves approval.

Second. council member cole seconds. Any discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say nay? Passes on a vote of 6-0, council members -- excuse me, board member spelman off the dais. With that, those are all the items on our agenda, so without objection we'll adjourn this meeting of the austin housing finance corporation board of directors and call back to order this meeting of the austin city council and begin --

mayor, I just want to take 30 seconds -- mayor pro tem. thank you so much. You've been here all day long waiting for three minutes of an agenda item. But it's important. What you do is really important to our citizens, but I want to thank you because I know you've been waiting all day for three minutes of getting your business done. So thank you. so now 00 zoning items.

Thank you, mayor and council. My name is agreeing gerns i, director of the planning and development department. I'd like to walk through the 00 zoning and restrictive covenants items. These are items where the public hearing has been closed and you can take these. The first item is item c14-2009-0162. This is for the property located at 11902 north interstate highway 35 southbound, which is zoned property community commercial, conditional overlay or gr-co combining district zoning with conditions. Again, this is ready for consent approval on second and third reading. Item 70 is c814-2008-0136, for the property located at 211, and 20 to 2512 park bend drive. Staff would like to request a postponement of this item to june 24. The applicant is in agreement with that request. 71, is case c14-2005-0151. I understand there might be a council -- I guess some council action on this that might require a little discussion so I'll come back to that in a moment. 72, this is case c14-2009-0102 part. This is for the upper boggy creek neighborhood planning area, vertical mixed use for second reading. There is a valid petition regarding this item, as the case -- when council member gone, the petitioner would like to have this item postponed indicating that the date would be june 10. There may have been some discussions earlier about possibly june 24, but the owner would like this postponed to june 10 and staff does not see a problem bringing it back on the 10th. So at this time I'll pause and you can take action on this portion of your agenda and I can come back to 71 in just a moment. the consent agenda for those items where we already had a public hearing and the public hearing is closed, items -- to approve on second and third reading 69, to

postpone 70 until june 24, 72 until june 10. That is the consent agenda. Is there a motion? Council member morrison moves approval. Council member riley seconds. Any discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say nay. Passes on a vote of 6-0 with council member spelman off the dais.

Thank you, mayor and council. Brings us back to item no. 71 -- Let me continue and do the rest of the consent items first. 00 Zoning neighborhood plan amendments, these are the public hearing, or possible action. They take place this item. The first item for consent 03 part for the upper boggy creek vertical mixed use neighborhood plan amendment. This is for tract 3. This is actually the same item that's related to item 72 that you just postponed. The owner -- the affected owner of this tract would also like a postponement of this item to your june 10 agenda. 74 is c c14-98-0150. This is a restrictive covenant termination for the property located at east wells branch parkway, zoning and planning commission recommendation was to approve the restrictive covenant termination this is also reme related to item 75. Staff would like to postpone this item to june 24. The related item is item no. 75. This is case c14-2009-0135, for the property located again along east wells branch parkway. This is zoned property commercial property mixed use, conditional overlay or gr-mu-co combining district zoning. Zoning and planning commission's recommendation was to grant the community commercial-mixed use or gr-mu-co zoning for the property. Staff could offer this as consent approval on first reading. This -- there is an agreement between this property owner and adjoining property owner, and they have entered into a private restrictive covenant regarding their agreement, but both the party that was going to voice opposition, i think, this evening or ask for postponement this evening and the property owner have agreed that if you were to add an additional conditional overlay to provide for a 25-foot setb dumpsters from the common property lines, with that additional condition this could remain on your consent agenda. 75 for consent approval of the commission's recommendation with an additional condition that there is a 25-foot dumpster setback from the common property lines of this property. 76 is going to be a discussion item. This is case c14-2008-0224, for property located on research boulevard. 76, is a discussion item. 77, case c14-2010-0010, for property located on mopac, northbound mopac, southbound frontage road. This is also going to be a discussion item. I'm aware that at least one citizen would like to speak to this item. That's item no. 77. The next item I can offer for consent is item no. 78. This is case c14-2009-0159 for the property located at 2807 del curto road. Staff is requesting a postponement of this item to your june 10 agenda. The planning commission did take action very early in the morning yesterday and staff will need time so we can prepare to bring that back on june 10. Item no. 79. This is for the property located at -- case c14-2010, 0026 on thompson lane. This is a brief discussion item. The next item I can offer for consent is item no. 80. This is case c14-2010-0027, for the property located at 11001 south 1st street. This is to zone the property to multifamily, residence medium density or mf-3 district zoning. The zoning and planning commission's recommendation was to grant multifamily density medium density conditional overlay or mf-3 co combining district zoning with conditions. This is ready for consent on all three readings. Item 81, c14-2010-0017, for the property located at 5914 lost horizon drive. The applicant has requested a postponement of this item to your june 10 agenda. 82 and 83, these are related projects. 82 i 166 rca for the property located at 8401 southwest parkway. The applicant has requested a



postponement of this item to your june 10 agenda. The related item, item no. 83 is case c14-2010-0042 for the property located at 8401 southwest parkway. This is a zoning change request. The applicant has requested postponement of this item to your june 10 agenda. 85 are related. This is zoning case c14-2010-0044, for the property located at 2301 and 2303 and 2305 western trails boulevard. The applicant requested postponement of this item to your june 24 agenda. 85 is case c14-2009-0093, for the property located at 2203 and 2205 western trails boulevard. The applicant has requested postponement of this item to june 24 agenda. 86, 87, 88 are related to the north lamar combined planning area and associated neighborhood plan, and zoning, these will be discussion. So that concludes the items I can offer for -- and 89, is a discussion. That's all I can offer for -- so mr. guernsey, on item no. 81, is there not a valid petition on that case? there is a valid petition but the applicant has also requested postponement. If you would like to be -- i would like to suggest that it be a council postponement, to be fair, because we're postponing all cases where there's a valid petition, and so that will leave the applicant the opportunity for additional postponement should he request it. -- Should they request it. very good, mayor. so the consent agenda is to 73 until june 10, postpone item no. 74 until june 24, to close the public hearing and 75 on first reading only with the additional condition of a 25-foot setback for dumpsters, to postpone item 78 until june 10, to close the public hearing and approve on all three 80, to 81 until june 10, likewise for item 82 and 83, postpone item s 84, 85 and 86 until june 24. And that is the consent agenda.

Mayor, 86, that will be a discussion. That's one of the neighborhood plan amendment items, so we can still take action on that this evening. all right. Correction to my last, it will be to postpone until 84 and 85 only. All right. Is there a motion to approve the consent agenda? Council member morrison with a motion. I'd like to make a motion to approve the consent agenda with the recommendation that the folks on item 81, which is the great hills country club, which is being postponed, I know that there have been conversations going on, and I would really encourage those conversations to continue because I think it behooves both parties to really reach a compromise here.

Mayor leffingwell: okay. Additional direction to continue discussions. Is there a second to the motion? Council member riley seconds. Any discussion? All in favor of approving the consent agenda say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 6-0 with council member spelman off the dais. And I believe that takes us to item 71. yes, thank you, mayor and council. Item 71 is case c14, 2009-0151 known as the east block property located at 835 west 6th street. This is this would zone to downtown mixed use, central urban redevelopment, dmu-cure district zoning. This is for second and third reading approval. Previously, council, you took action and approved the zoning and I'll just highlight some of the changes that first are reflected in the ordinance of your action, that there would be a height limitation on the property to a maximum of 350 feet outside the capital view corridor, that if there is parking on the property, the parking structure must be screened subject vehicles within the structure must be screened. Leasable area, no more than 30 parking spaces may be provided as short-term. These exclude the park and share parking area, also the minimum of two levels underground parking be provided. Those provisions were placed into the zoning ordinance. In addition there is a public restrictive covenant that has been executed, and this is -- would require that the property be compliant with the

austin energy greenbuilding program for a minimum of two-star rating. The property also comply with the great streets design criteria, that green roofs be provided on the property, open space be provided, if development of property exceeds 486,000, that there will be development on the property described as green or open space area. It could be either hardscape or landscaped areas, accessible for public use and at least 5,000 green or open space area be along the shoal creek. Buoy creek, be provided, you saw a 5 feet monolithic curve bicycle line on the east side between fifth and sixth streets. There would also be shoal creek improvements, and those are the conditions that are generally in this public restrictive covenant. There is a private restrictive covenant and I'll highlight those. These are not enforceable by the city but the owner has agreed to comply with these. First that there is a 5% of the total units on the site, the residential component, but not be less than one unit for each 20,000 square feet in excess of baseline or bench mar of 282,680 square feet must qualify for affordable housing units up to 80% medium family income. As an alternative for going with affordable housing, the owner has the option to donate to the housing assistance fund of the city's neighborhood housing community development department a fee in lieu of calculated at \$3 per-square-foot of the gross leasable area built in excess of 482,687 square feet, and however, in no event shall a donation be less than 100,000. Such affordable housing donation shall be paid by owner/developer upon the issuance of a certificate of occupancy for any on-site buildings that exceed that baseline of 462,680 square feet cumulative over the full site. The owner will dedicate \$10,000 to the city's park and recreation department earmarked for improvements along shoal creek or related for restrooms, if the project again exceeds 482,687 square feet. And if the building development on the property is less than 482,687 square feet of gross leasable floor area, regardless of the density or mix of uses built out on the property, the owner will pay the neighborhood housing community development department as a donation in fee in lieu of no less than \$100,000 to affordable housing upon the issuance of a certificate of occupancy for the final phase of this development. Again, that portion is all in the private restrictive covenant, and with that I'll pause. If you have any questions or comments. council member morrison. -- mayor pro tem martinez has left the dais so this could only be offered for second reading in the event there's a favorable vote -- we're not through talking yet. Let's keep going. guernsey, some of the items that have been discussed by the applicant have been moved to the private restrictive covenant, and I wonder two things. One, if you could describe who that private restrictive covenant is, you know, how it's enforced, and second, why those things can't go into the ordinance.

Guernsey: yes. The private restrictive covenant, as I read into earlier that dealt with mostly about the affordable housing and the fees in lieu of, was one that was proclaimed by the owner, and it could be also modified, amended only by the owner or then current owners of the property or portion at the time of such modification or amendment. So it's not with a particular entity. It's proclaimed by the private developer and/or their successors. And -- they're making a commitment to certain things and only they can change that commitment?

Guernsey: that's correct.

Morrison: okay. or their successors. is that unusual? I mean, usually I see private restrictive covenants between two parties and so there's an enforceability -- there's some assurance. I have seen instances where restrictive covenants have imposed an condition upon the owner. It is more typical I would think that it is within an adjacent property or neighborhood organization or some other, but I wouldn't say that

this is out of the ordinary. I've seen other covenants where basically it's imposed upon themselves. and the successor owner could also change it? So if they -- if the successor owner didn't want to comply with the affordable housing description, then they could just change that and it would be null and void? that's what this document proclaims. The applicant's agent is here and they could probably go into more detail about how that would work in the future, if you would like.

Morrison: sure. Do you have a comment?

Thank you, council members, alice glasgow representing slusher development. We asked the law department to include the affordable housing and the money being offered to the parks department in the public restrictive covenant and we were told no, that could not happen. So they asked us to draft our own private restrictive covenant that would -- because the funds that we're offering, we felt like it was appropriate for the items that are -- the money that is being offered to the city of austin to be in a restrictive covenant. I believe the difference between this case and others that came to you previously under the cure, they've been -- the funds were not offered to the neighborhood housing department. So my -- my opinion, and I'm not a lawyer, because in this particular case we are volunteering the funds, and we're having 5% of the units on-site, and that the funds, if they are applied, the fee in lieu of is triggered, then those funds would go to the neighborhood housing department, city of austin, but it seemed appropriate to include that in the public restrictive covenant to be enforceable by the city, which your law department said that could not happen, dropped your own private restrictive covenant. We cannot -- your department cannot be a party to our covenant so we're willing to do whatever the city council tells us. We're willing to -- we don't know with whom to partner with in our private restrictive covenant, so help us. well, I do have an idea, but you sound very -- your comments are very logical that it seems like it should be reasonable since you are voluntarily offering these affordable housing, but of course we need to hear from the lawyers.

Right. so maybe shaw could explain why it's, from your perspective, not okay to include a commitment to affordable housing.

Let. let me, before he does -- let me say that I'm getting very uncomfortable with discussing the conditions of a private restrictive covenant that contains in it items that if we considered as a council would be considered to be contract zoning and would not be, in my estimation, in accordance with the law. So I'll let the attorney address that.

Well, I will say in response to council member morrison's question, we do have a state statute that does not allow us to condition zoning on an affordable housing requirement, unless it is within a voluntary program, such as what we see with the interim -- I always refer to the word, interim density bonus program, or resee in the vmu incentive program, and this is not one of those programs. so the -- i guess I'm a bit confused about that, because cure explicitly does lay out that it is an entitlement bonus to accommodate high priority projects that enhance the stability of urban neighborhood, including the development of affordable housing.

And those words I believe do appear in the purpose of the cure. That's one section that discusses the purposes, but the actual mechanics of cure, it does not offer an incentive program to provide affordable housing. So there may be a bit of a disconnect there. So the difference is -- legally, is that there has to be a specific as opposed to that's what the state statute says, it can only be done within a program rather than a purpose.

That's true. Glasgow, I did have one idea. I think this is unfortunate that we're not able to do this, and obviously your intentions, and we know that the developer's intentions, the applicant's intentions are good. The concern, of course, is that if the property transfers to another owner, who knows what that owner's intentions would be, and there would be no limit, but I just want to offer a suggestion, you might talk to the downtown Austin neighborhood association. I know that some neighborhood associations do enter into private restrictive covenants.

To partner with the downtown? Partner with them in the private restrictive.

So you're suggesting we remove -- amend our offer to give the funds to the neighborhood housing --

Morrison: Not at all. Just amend as to the parties to the restrictive covenant, to add a party to a restrictive covenant --

to add a downtown alliance to make sure the money -- Ordain -- just an idea.

We appreciate the suggestion. Thank you.

Cole: Mayor? I want to state for the record I'm very uncomfortable with this line of discussion. Council member Cole?

[One moment, please, for ] Council member Cole moves to approve item number 71 on second and third readings. Seconded by Council member Riley. And is there any further discussion? Council member Morrison.

Morrison: I would like to comment that I will be voting against this. I want to make it clear that I am very supportive of density downtown and many aspects of this project are great. I am concerned for moving backwards in terms of our need for affordable housing in this town and won't be able to support this.

Mayor Leffingwell: All in favor of the motion say aye.

Aye.

Mayor Leffingwell: Opposed say no. Opposed say no. No.

No. Thank you.

[Laughter]

Mayor Leffingwell: Motion passes on second and third readings on a vote with councilmember morrison voting no and councilmember spelman off the dias, so the vote is 5-1-1.

Thank you, mayor and council --

Mayor Leffingwell: And guernsey, I had an idea here, we are past 00 o'clock, past the time certain for our public hearings and can we deviate here and go ahead and postpone a whole bunch of items, the way I read it, item number 92, a request for postponement -- the first request has been made by the appellant and councilmember morrison is requesting a postponement until june 10th or june 24th, councilmember? The 24th of item number 26, and since 93, 94, 95, 97, 98 are related, then postponing item number 96 would require that we postpone 93 through 98. So in effect, we would postpone items -- item 92 until june 10th, and items 93-98 until june 24th. I will take a motion to approve those postponements.

So moved. Council council member coal moves to postpone the consent agenda there as I previously read. There is a second by councilmember shade. Any discussion? All in favor say aye. Yay oppose, no. Passes 6-0 with councilmember spelman off the dias and now we can go back to the zoning cases.

Thank you mayor and council, zyme 76, c142008-0224 for property located at 13642 research boulevard. highway 183 the opposite of palm springs road on the south side or west side of the road. The zoning change request is to go and, the go portion is tract 1 is approximately 8-acres and the go portion of the property is approximately 2.5-acres. The zoning and planning commission recommendation was to grant the staff recommendation with some additional conditions and these would be to remove counseling services as prohibited use, to remove the prohibited access to caldwell drive as a condition of zoning and remove the frontage and remove access road track to immediately south to the property. The portions of staff recommendation would be number of trips on the property located to 2,000 vehicle trips per day and there are additional conditions that the applicant and neighborhood representatives have further agreed to prohibit as uses on the property and this list for the gr uses that would be prohibited would be auto rental, auto repair, auto sales or washing of any time, bail bonds, communication services, strep off recycling facilities, drive through services, exterminating services, indoor entertainment, indoor sports recreation, outdoor sports recreation, pawnshop, service station, theater, counseling services and group home class one and then go prohibited use would be communication services, counseling services, group home class 1 limited in general, group home class two, guidance services, private primary educational facilities, both primary and secondary, public, primary and secondary educational facilities on the property. Let me continue with some of the other uses on gr -- group home lass one, limited group one class two, guidance services, primary and secondary educational facilities, public and primary educational facilities and residential treatment. There are some additional neighborhood representatives that have requested additional uses to be I think I might leave that for them. Those are listed in your back ap. Let me tell you about the site, it is zoned sf3 and there are auto and retail use on the property. To the north are single family or sf2 and lo and single family uses in office to the south is sf2 and grco which has single family retail and undeveloped tracks to the east, single family, and to the west is grconcf, where there is an o hotel, restaurant and water uses. S in in the lake creek water. It is in the desired develop zone. The desire to currently zone the property by the covenant again is for grco and gr uses. We bring these uses back in compliance with our time as far as the zoning is concerned. At this time I will pause ron thrower who is

representing William Home, the agent and I believe there is a neighborhood representative here that both would like to speak to this case, so if you have any questions, I will be happy to answer at this time or later.

Mayor Leffingwell: Okay. We will hear from the applicant. You have five minutes.

Mayor, Mayor Pro Tem, Councilmembers, I have a handout I am passing to you and I will go through that in a powerpoint presentation. The property, just to orient everybody, there is 183 along the frontage, there is Woodland Village which is to the north but not abutting the property and Caldwell to the south but not abutting the property. The subject property I am showing here and you see has a very large automotive repair business on it today. It has been there for 20 plus years. To the north is the Anderson Mill mud, to the west is a project referred to as the cottages and the back part of our property abuts the pond of the cottages property.

Outlined in blue is the Acres West easement I can't recall area and then there will be discussion about the Bros property that I outlined in orange. That was a zoning case I was involved with five years ago and part of the discussion will be related to what I am outlining in green here which is residential property. That is part of the purchase by my client, the buyer not property and that is to remain residential and there is no commercial development associated with that. Moving to next slide is a development site plan we have developed with the City of Austin which shows intended use of the property today. The buyers of the property is a dermatology and they would like a place to call it a permanent home, in the middle. A two-story structure, roughly 18,000 square feet. The building along 183 will be retail development and the building to the east is another smaller one-story medical office building. We have, again, I want to point out the streets. Anderson Mill cottages to the west and the pond on the west side abutting the property, and the cottage's driveway which is between our property and the residential development of Acres West and then there is the Acres West subdivision and then the Bros tract again and the residential property, that is Lot 20-Acres West. The surrounding area you see Bros zoning GR and the other is LO and the interim SF and RR zoning, we are proposing GR zoning at the front of the property, go zoning at the back of the property which is identified by red line on the plan. We have driveway on 183 relocated, another driveway on 183 that is existing today that we are making joint use driveway with the Bros property and we will plan additional landscaping along the back side of the smaller medical office building to help screen -- it was at the request of the cottages development. The Bros property, part of that zoning can did allow contact says to Caldwell Drive and that access to Caldwell Drive will happen assuredly as part of that development. We are placing another driveway on to 183 making it a joint use driveway so the Bros property and our property had access to 183. I believe you will hear testimony from the neighborhood where they do not want us to have access through the Bros property to Caldwell Drive. There is a lot of merits for driveway to Caldwell Drive which can provide secondary access for the neighborhood in case of emergency and can also be a diversion for my potential cut-through traffic into the neighborhood. Obviously we won't be able to stop all of the cars that may turn into Caldwell. I think it's

also important for you to understand this is the only access for the cottages and the acres west subdivision. There has not been any additional connectivity to any of the surrounding streets of the area, and that's the crux of the situation. We offered up 26 prohibited commercial uses, planning commission, zoning around planning commission wishes to take one of those back, being counseling services. We are in agreement with the staff recommendation and we are also in agreement with the planning -- or the zoning and planning commission recommendation and I am available if you have any questions. Questions for the applicant? We have folks signed up against. We will hear from those first. First is cindy barron, cindy, you have three minutes. Cindy, when you get up to the microphone, tell me who is supposed to donate time.

Carl snow and brenda snow.

Mayor Leffingwell: Carl snow and brenda snow. Okay. They are both here? You have nine minutes.

And blakeer morris, also?

I don't know that I will need his time. Okay.

Mayor Leffingwell: Okay. You have nine minutes.

Thank you, honorable mayor and councilmembers, I am giving you a handout which highlights the additional conditions that we would like to be considered here tonight. My name is cindy barron, a native austinian and have lived in acres west the past 38 years. The zoning case is forcing us to deal with the challenge of cargo for a proposed development directly in our front, side and backyards since it is totally surrounded by three sides of residential properties. In working with the agent and potential buyer of the project, we had hoped we had come to closer terms on what we felt would be a development that would enhance the three attached neighborhoods and be more compatible with the residential property that is bound this site. The draft ordinance indicates we made some progress but I understand it's been pulled and I do have some questions to guernsey about the access and the verbiage he was using. I don't understand, but, anyway, we have made some attempts to work things through with the potential buyer and the agent. In addition to the prohibited uses that were recommended by the applicant and staff has recommended, we would like to -- for you to consider the addition of consumer convenient services, funeral services, hotel, motel, restaurant general, and day-care services of all types and that's for the tract -- tract 1, excuse me, tract 2 under go, we would like for you to consider day-care services of all types, hospital services, general and limited to also be prohibited. We have proposed that they maintain a 25-foot building setback from all residential properties on both tracts. They object, and I will let him explain why they are objecting to that. But we have also proposed that they maintain a 35-foot building height limitation, which is, in fact, totally consistent with all of the commercial properties that line this southbound 183 from hidden meadows to anderson mill road -- hidden meadows to anderson mill road but not only

compatible standards but deed restrictions. The height limitations has been a concern of us. thrower, the potential buyer objects claiming that compatibility standards should rule. We claim 35 feet is the maximum compatible height in this area. We have proposed that they construct and maintain an 8-foot solid wall on the north boundary of their site that joins with 12 residential properties in woodland village, the extreme lithic underbrush and many trees that have provided us best natural abatement from the increased traffic noise generated by elevated onramp 183 will be removed from with this development. They claim it is not in their budget to provide this fence and that they only have to provide a 6-foot fence where there is none and dumpsters and mechanical equipment will be screened. Noise abatement doesn't seem to be a concern for theirs except for what is required by the lan code. We firmly believe good fences make for good neighbors. We propose a minimum 15-foot natural vegetative buffer thrower added on his powerpoint presentation, but we had not finalized that before tonight. There was a verbal agreement. We proposed that they limit their hours of operation from 7:00 a.m. to 10:00 p.m. For permitted use on tracks because it is so nestled within three neighborhoods and bound residential property. We don't know if this can be a condition of zoning or if it has to be a private restricted arrangement. And we will need your guidance on that. We proposed a 50-foot building setback from us 183 which was screamed at, yet their site plan does comply to that, and if you have been along that strip of 183, you will know that many of the buildings are less than 10 feet away from the running lane of the frontage and it's just really been -- we would like to see that corrected. There are two happened mark type heritage trees that grace the site as seen on 183 but it will be sacrificed for parking, retail and restaurant uses they are not willing to limit. They claim the site plan is not subject to the newest tree ordinance and they want to have options. It is our understanding that the potential buyer is in a hurry to proceed because of his current lease expiration. We opted to forego our afforded request to postpone this public hearing as our gesture for our support for his primary intended medical office use. We hope you will consider these additional conditions. Thank you. Council member morrison.

Morrison: Excuse me, i barron, thank you forgiving us this list.

I figured it would make it easier.

Morrison: Yes, and also you have probably been here for hours and waiting. Thanks for waiting.

Yes, I am tired I can't see anymore.

Morrison: I wonder if you can help me understand -- i know the staff backup said originally the neighborhood had requested a whole -- a big long list of additional prohibited uses or conditional uses and it looks like you have really slimmed it down here.

We scaled it down because, you know, after going through the planning commission -- and it's kinds of based on what we had worked through with thrower on the brz tract back in 2005 and decided some of



those needed to be in there -- on the broz tract -- and restaurant general is something we have a problem with -- we have so many restaurants around us and we feel like it's just not a feasible location for a restaurant because it does not have controlled access. There is no lights to control the in and out and what have you and of course we don't want to see the additional traffic on -- on our little substandard street.

Morrison: You also left on your list consumer convenience services.

Yes.

Morrison: Can you explain -- maybe give us a feel for why that is problematic.

Again, because it's not at a controlled intersection. It's on a frontage. In and out is limited and, you know, I just feel like that is more suitable for an intersection where there is a light or some sort of traffic control.

Morrison: Okay. And what about funeral services? Is that the -- are most of these --

I don't really have a problem with that except it does stop the traffic. But we have around the corner from us that already abuts up to the south side of acres west, and just don't feel like maybe there is not enough business, you know, to require two of them within --

Morrison: Right.

So many feet.

Morrison: That makes sense. And then, let's see. What about the day-care services. I see you have that requested?

We have a massive day-care projects that going on in, again, on the south side of acres west and just feel like, you know, there are day-cares everywhere and with day-cares, you have to be concerned with playground areas, safety of the kids, you know, noise levels. It's on a highway. So, you know, we just don't feel like the suitable for a day-care area and we thought about all of the uses.

Morrison: Right.

Very, very carefully.

Morrison: I see you have and I am just trying to make sure I understand. Do you also have a lot of hotel, motel, is that on your list, is that why?

No but they have saying limit their trips to 2,000 and I think a hotel motel would make it up and concerned about the height and I think 35-foot height limitation, I don't know if many hotels motels fit under 35 feet.

Morrison: Okay. And then hospital services, that's the last one I want to get.

Hospital services, what concerns us there is the hours of operation, where you have ambulances coming in and out. We hear the ambulances from five fire stations within earshot from our neighborhood already, so, you know, it's just trying to think about the uses and how they can impact our neighborhood.

Morrison: Sure. I appreciate you being so thoughtful about all of those. My last question is, so, you mentioned the 50-foot building setback from 183.

Yes.

Morrison: Could you explain that again? I think you gave us a reason for that.

Well, at one time, under williamson county subdivision regulations which we are part of williamson county there is a requirement for building setback on highways that are controlled by txdot of 50 feet. I mentioned that to ron, he was just, oh, no, and, yet, their site plan that they are proposing is 60 feet -- set back 60 feet from the highway because of all of the parking in the front. The parking in the front will also eliminate the two huge heritage trees that are in that area and I just feel like they need to do a little more schmoozing and manipulating of the parking lot and the building to try to -- they are like landmark trees. I mean, you see them from the highway and to remove those and just see the front of a building, it better be a very special building.

Morrison: Okay. Thank you very much.

Thank you. barron, the next speaker we have is mr. morris. Welcome, you have up to three minutes.

Thank you for allowing me to speak. I am bleaker morr six and have worked there for 38 years and watched it from a country to city and saw austin come back there, it was only december 31st they took us in. I was one of the people that started the charlieville volunteer fire department out there and so I know a lot about the community and the safety. Any access on caldwell drive would not be good because the street is not wide enough to accept them. Also, caldwell drive and lois lane are dead end streets. There is no outlet other than the one which already, already, -- there 100 houses in that development, so you can see the traffic going in and out and we can't afford to have anymore. Now, as far as the infringement on our safety and the quietness of our neighborhood, we would like to see a fence put up, like cindy talked about, and, also, the tree planning so that it helps lessen the noise of traffic. They also had proposed in the retail outlet in the front that they might want to put in a sandwich shop or something like that. And I

might point out, if you take about a half mile radius around cald drive, there are 34 eating places out there, so we don't need any more. It's not necessary. So I would like to see that removed. As far as retail up here, that's fine. They can have it. But I don't want to see any type of eating places, because that brings in more traffic, and, also, if they miss that, then they are going to turn on caldwell drive and we are going to have that problem of them getting back out to try and go around there. And that's just about all that I have to off at this time, so if you have any further questions of me, i will be very hap answer.

Thank you. I think we have one more.

Thank you, I did want to ask you one question and it is related to access on caldwell drive. I want to understand, suppose you or one of your neighbor there is in acres west wanted to get to a doctor's appointment on this property, or -- or wanted to get to the retail that is there, if there is no access on caldwell drive, can you help me understand how you would get there.

I could walk there.

And I would do --

that is how close it is.

Through which property?

I wouldn't have to go through any property. I would go right out to the highway and right along there and go in there.

Riley: Along the highway and there is a sidewalk along the broz property?

There is a right-of-way there and the frontage of the property there is a right-of-way and I could walk over there.

Ril: Great.

And if I wanted to drive over there, I would turn out caldwell drive, go down to anderson mill road, turn left, go back up 183 on lake creek drive, turn around, come back down.

Riley: Okay. Got it. Thank you.

It is within a very short distance.

Riley: Thanks.

Martinez: morris, do you have a son named larry? Do you have a son named larry morris?

No, it is morse.

Yes. Yes.

Like samuel if. p.

Thank you. Sir.

Mayor Leffingwell: Gloria morales.

Good evening again. They say the dead speak from the grave. I was buried a live. Alive. Zoning covenant, violating civil use of facilities. I think when you are zoning, approving, authorizing and taking into consideration zoning, violating the civil -- the use of civil -- violating civil service use of facilities and abuse of the city -- abuse -- and the use of city public facilities. Public access tv channel austin, the director, linda lakowsky in accountability of the zoning and the use of those facilities. I paid for my classes, certified, was re-tested, producers are not able to use the facility as it should be used. It is closed on mondays. The facility is open. When you offer us a zoning to a facility, take into consideration that it's used as it should use and that we don't have -- [ buzzing sound] [.

Mayor Leffingwell: Ms. Mo mo rales, I am sorry, I don't understand what you are talking about. We are discussing a zoning case here?

Yes, I am talking about when you give a zoning approval to a facility, that a facility, such as public access tv is missing the zoning that in the future.

Mayor Leffingwell: Rewith talking about a particular zoning case.

Any zoning, sir, any zoning, that it should be used as -- as it is appropriated and identified and not misused. Like in the case of public access tv channel austin where producers can't use this facility. You identify this use over by 183 and you identify public restaurants, or identify maybe hospitals that, when you zone something that it be used as it be zoned. Thank you, sir.

Mayor Leffingwell: Thank you. Three minutes rebuttal for the applicant.

Thank you, mayor. I don't know quite how to rebut that last set of comments. I also want to point out that we did agree to drive in as accessory uses to be prohibited on this property. The access to caldwell, we are not -- we don't rebut caldwell, the broz tract is allowed access to caldwell. If we don't our joint use driveway put in to 183 and limited access to caldwell then all of the broz traffic will be on caldwell and

won't be able to get a driveway to 183. We offered to the neighborhood we could put up additional signage on the street if necessary, dead-end street, no commercial traffic, no right turn, whatever it takes. There is also a condition of the broz zoning that if there is going to be a drivew access from broz to caldwell that caldwell needs to be upgraded to 30 feet in width, because right now it is substandard, no doubt. The minimum 25-foot building setback, I want to point on the north side we have a 25-foot societyback on the west side where we abud the crime there is a 15-foot setback and to the south is a residential lot that any client is buying and we are in the triggering compatibility among ourselves and there is existing development within that 25 feet and we are not increasing any level of noncompliance to that vacant residential lots that lot 21. The building height -- we have been moving forward to architectural plans the architect has and the building is designed at 43 feet. Compatibility should be the governing rule of height here and I believe 46 feet would be what is allowed under compatibility. As far as the trees go, we have had a lot of discussions with city staff about this property. We are removing some trees on the property. The low point of the property is right where one of the bigger trees is is and either it's going to be a parking lot or a pond, there is not much we can do about it. We have to raise the front part of the side up so we can put a pond off to one side. Staff is very pleased with the tree preservation we have done on the site. We are saving over two-thirds of all of the trees on the property. We did sit down and try to come up with different ways to maneuver the parking lot or do some different configurations along the front, but all of that would impact a greater number of trees further, deeper into the property. Again, you know, we are looking for y'all to support planning commission's recommendation and I am available if you have any questions.

Mayor Leffingwell: I have a question for you, scott. I have seen this list of 8 additions that the neighborhood has? Have you seen it?

I was not aware until five minutes ago that they had pareed the list down to 8 more. I was not given the list but I did make note of it.

Mayor Leffingwell: I am assuming you don't agree with number 4, which is a 35-foot building height limitation on both tracts, which is only -- that's only 8 feet lower than what you are planning?

I don't agree to that, but I can agree to having the middle building be the only two story structure. We can explore something like that.

Mayor Leffingwell: You will comply with compatibility, of course?

Absolutely.

Mayor Leffingwell: How about the other 7 conditions?

The 25-foot building setback, again we are complying with compatibility standards and 25-foot is not required. I am not going to agree do that one. Dimensionally that will make things very tough and there is already development inside the the 25-foot setback in a few areas. 28-Foot solid fence, you know, there is a lot of residential property along there. There is existing 6 not-foot privacy fence over a lot of that, to take all of that and replace it with 8 feet, I don't think is -- it's a lot to ask for this particular property. We are talking over 1100 feet offense that would then have to be ripped out and put back in just to add two feet. I think that's a unique request that is a little bit burdensome. The minimum 15-foot natural vegetative buffer, we are agreeing to that. That was cottage's request. The hours of operation, I am hesitant to do that. My client wants flexibility in the potential uses that can go the property. It's not going to be a cocktail lounge that could ever go in there. It is not allowed. Restaurant general possibly could go in there. It smaller than nature. An atm. This is saying we couldn't have an atm on the property and my client doesn't want to be hamstrung with hours of operation when they have their and they like to get to work sometimes at 00 o'clock in the morning and don't want to limit other doctor's practices to certain hours because everybody works. People have to go in very early in the morning. Some people come in later or in the afternoon. The 50-foot setback on 183, I would characterize as screaming -- I was characterized as screaming at this. I don't believe I screamed. But it is an older county rule that they were trying to impose upon us and I was saying there wasn't any regulatory authority for that. I am not necessarily against that. I just don't think it's necessary. There is no 50-foot setback on the broz property or to the commercial property to the north. The additional prohibited uses, I don't -- I don't personally see a problem with day-cares going on this property. I could see that could be a viable use. Funeral services. They are going to stop traffic. I understand that, but every funeral operation will stop traffic. I am just not accepting of a lot of these conditions.

Mayor Leffingwell: I don't think I ever heard of 50-foot setback requirement, except for maybe hill country roadway or something like that.

I agree with that. Council council member morrison, did you have a question?

Morrison: Similar to yours, I guess just to follow up, you made one comment that the property to the south was residential, that was zoned by your and that you wouldn't trigger compatibility on yourself what did you mean by that? That you choose not to do compatibility?

There is provisions in the code that allow within our site plan a boundary residential lot that we own and if we include that lot within the boundary of our site plan, then we are not triggering compatibility upon ourselves and greg can attest to this, I believe.

Morrison: If you can tell me where that comes from. I am not familiar with that.

A site plan is not limited just to commercial property, nothing stops an individual from including a residential tract that they own and control into their site, and for commercial use, parking, accessory to a commercial building, and you wouldn't put a pond for commercial use maybe on the property but you could include it on your site so it would not trigger compatibility on to yourself and actually it has been done throughout the city. Sometimes it is actually offered as a buffer to neighborhoods saying, I will include this in my property, you don't have to worry about it being sd, because if it does, it gets issued by compatibility and the owner and then they sell faster because there is not fear of it being sold off and part of the site plan and usually they are better in those cases.

Morrison: Thank you. I leaed something about compatibility today. One other thing, thrower, with the items 1 and 2 on here, the additional uses and the hours of operation -- the additional uses, that would on preclude anything that is currently planned, if those were prohibited; is that correct? Because you are planning retail?

That's correct. And we already have a list of 20 sore so -- 26 -- 25 if you take out what

[indiscernible] wanted to take out.

Morrison: Okay. Thank you. Council I, discussion? Anyone for a motion? Mr. guernsey.

I just wanted to say this is only going to be ready for first reading at this time. There are a couple of issues.

Mayor Leffingwell: We all knew that mr. guernsey.

[Laughter] councilmember morrison.

Morrison: I am going to make a motion, trying to balance some of these issues that have been raised buzz because clearly with zoning the gr is a big change, for all of the properties, the residential properties around it, and so trying the find the balance there, i think, is really important, but I would like to motion, I guess, the recommendation on first reading with the following, I would like to go ahead and include the prohibited uses that were listed here by the neighbors, which I think are very scaled down and thoughtful set of prohibitions, consumer on tract 1, consumer convenience services, funeral services, hotel, motel, restaurant general and day-care services and on tract 2 day-care services and hospital services, and then in addition, and i might need some help from guernsey on this, to limit the hours of operation from 7:00 a.m. to 10:00 p.m. Because I do think that would be -- hours of operation can have a significant impact on residential.

I think we can work with the law department if that was done. I think you will probably have to go possibly in a public restricted covenant. I know we do have certain uses with our zoning regulations. Typically in the neighborhood planning areas, there is a corner store that has limited hours and I believe this actually has been done in the past so we can work with the law department on that.

Morrison: Thank you. That is my motion, mayor.

Mayor Leffingwell: Motion to close the public hearing and approve on first reading the zoning and planning commission recommendation with additional prohibited uses for tracts 1 and 2 and limit the hours of operation from 7:00 a.m. to 10:00 p.m. For all permitted uses and we've got to figure out how to do that but this is only first read. Is there a second to that motion? Second by councilmember Cole. Further discussion? For. Councilmember Riley.

Riley: Can I get some clarification on planning recommendation? I know they removed prohibition of access to Caldwell but they said limit access to 183 frontage road and the existing joint use access, so the only -- they would allow access through the joint use tract through the Broz tract?

I think what the zoning and planning commission recommendation did is have direct vehicular access on the Caldwell, so if they took access through an adjacent property, such as the one that was described by there thrower along 18 -- thrower, along 183 that would be allowed. Throw mayor mentioned the adjacent property to the south of 183, there was an upgrade required or widening of the street before access would be allowed so before we bring this back for second or third reading, we will get that invest to you so that is clear that that is, indeed the case.

So then zoning and planning commission recommendation does prohibit direct vehicular access to Caldwell? Caldwell?

Right if you look at where Caldwell makes if sharp bend there is a place.

There is residential property?

Yes, the property is zoned less than I can't recall at the hard corner so they will not be able to take access to medical offices or the retail use for that tract because it is zoned single family. That would have to come back to you to be rezoned if they want to take access at that hard corner to the adjacent property, but the properties that along 183 or Research Boulevard is zoned GR and so they could take access as was discussed by the planning and commercial division of that the access right by 183 of Research Boulevard to the south.

Riley: What about nonvehicular access?



Well, from the standpoint, unless they actually create some sort of -- if it was more passive, I guess it will be more difficult to staff, to say that someone can't walk from caldwell to this tract directly across those properties, that would usually be a subpassive trail and I think we had tracts and others in other zoning cases and I think there is escarpment and slaughter, there was a trail that was actually put in.

Riley: Trying to get clear on the zoning and planning commission recommendation, the zoning and planning commission recommendation would not prohibit nonvehicular access, it only prohibits vehicular access.

It only says prohibit access -- you could say limit vehicular access and that would allow bikes and pedestrians to cross.

So instead of all access, we limit vehicular access to caldwell, can we make that clear?

Absolutely.

Mayor Leffingwell: Second. Do you accept the friendly amendment?

Yes.

Second.

And I understand there is a significant amount of day-care in the area but day-care is --

[one moment, please, for change in captioners] I think it's entirely appropriate zoning for 183 frontage. However it does abut neighborhoods in a couple spots, and I would like to encourage the applicant to get back with the neighborhood and discuss in some way -- obviously a lot of these conditions that they propose are trying to provide some kind of buffer between this commercial zoning and commercial properties, so whether that's a 5-foot vegetative buffer or 10-foot vegetative buffer, I think it might be productivity to have the applicant and the neighborhood engage in those kinds of discussions before we come back for second reading to comment. All in favor of the motion, say aye.

Aye.

Mayor Leffingwell: aye. Opposed say no? Passes on first reading on a vote of 6-0 with council member spelman off the dais.

Thank you, mayor and council. I believe that takes us to our next item. 77, case c14-2010-0010 for the property located at 5810 north mopac, southbound frontage road. This is to zone the property general

commercial services, conditional overlay or cs-co open zoning. The planning and zoning commission recommendation was to approve the staff recommendation for cs-co zoning and all other permitted lo uses, along with convenience store is the only permitted cs use. The change that was part of the staff recommendation that the applicant requested recommended by staff and commission would change the floor to air ratio on the 1 to 1, and then this would allow the applicant to build or construct an additional approximately 15,000 square feet of convenience storage or mini warehouse storage on the property. The site is currently used for mini warehouses or convenience storage. To the north of the property is lo and a bank to the south is gr-co. -- Excuse me, to the north is office, to the south is the bank, to the east is the mopac expressway, and to the south is additional offices zoned lo. I believe we have one citizen here from the neighborhood that would like to voice their concerns about this, and James Waiter is here with and he can speak as the agent also on this property. So at this time I'll pause. If you have any questions, otherwise the applicant and agent can come forward. Questions for staff? We'll hear from the applicant. Now, you'll have five minutes. Mayor, council members, my name is Jim Letterer, and I appreciate the opportunity to address you this evening although I didn't know this morning it was going to be this late in the evening. I'll make it very brief. I apologize for that.

Okay. That's fair enough. What we are -- convenience storage, we're a local operation. We're not associated with any chain. We have a facility -- at the facility right now we have some vacant land, and what we'd like to do is add a few extra units because we have the need for -- and the demand there. We currently, under the one to one floor to area ratio, we can build on that land approximately another 7500 square feet, but what we're asking for are to give us really not an additional 15,000. It would make a total of 15, but we're asking for about 7600 extra feet over what we can build right now. And the situation that we found ourselves in was that on the vacant part of the property, we have a number of trees there, and if we built out with what we had right now -- I'm not sure we could even build it out totally at one story without just -- it would wipe out just about every tree there, other than the ones that we were required to keep, you know, in a buffer and that kind of a thing. So what we did is we came up with the idea that we could just add a little bit to our floor to area ratio, well then we could go up, and that way instead of having -- this is just hypothetical -- a 7500-foot footprint of one story, we could have -- if we get the total of 15,000 we could have a 5,000-square-foot footprint. This would be compatible with the buildings we have now, which are three stories. It would lead all the trees, or a great number of them that otherwise would probably be taken down if we had just one story. So what we have is our building is stucco and stone. It's very compatible with the neighborhood. Since we've been there about four years we have not received one complaint from anybody about anything that I'm aware of, and we think we're good neighbors, and this building would just be a small addition to what we have already, and it would be very helpful to us for our business. If anybody has any questions I'd be happy to address them. Questions for the applicant. Apparently none.

Thank you, sir. we have one person signed up against, ann dinkler has been here for a long time.

No, sir as long as you-all. Thank you for being here. My name is ann dankler and I'm here on behalf of the northwest austin civic association. Another 7600 square feet, no big deal, right? However, to understand this case you have to know how we got here. The neighborhood association agreed to the rezoning of most of the strip between north land drive and the northern tip of this tract to gr to allow for the construction of the McDONALD'S. The construction of the restaurant made bypass from balcones drive to the frontage road. For those of you unfamiliar with the highland hills subdivi cone he is is the only wa balcones is the only way. All the others are one story, except for a two-story bank in the comes month tolling building, which is a two -- story -- 500 square feet of retail. Its use would be considered lo zoning. 29 to 1 and 70% impervious cover by ordinance. That's not go zoning. Restrictive covenant was also put in place to address lighting, signage and tree protection. No tree over 12 inches for the northern 455 feet of the property, which is more restrictive than the current heritage tree ordinance could be removed from a 20-foot wide strip along balcones drive. Although the zoning map shows the tract ats gr, the site development are more in keeping with neighborhood office, which is 35 feet of height ratio, a floor to 35 to 1 and 60% impervious cover. When the tract came up for rezoning in 2004 we did not oppose it. We believe that the original recommendation by case manager familiar with our area was artfully developed. Convenient storage was the only recommended cs use on the site development standards she recommended which limited height and impervious, a scale minimal even with cs zoning. However increasing the floor 1 makes us nervous. The floor to area ratio now is three times bigger than the property to the south. While site development standards might keep them from developing all 15,408 square feet, we are potentially looking at a 23% increase in building size. That addition alone is larger than the building across. So the solution seemed to be to recommend that all existing trees be kept, which would effectively keep the screening, limit the scale in the development and allow him to develop. Now, we realize every tree will not be saved, but do not assume an applicant following the city's requirements would save most of them either since these decisions rest with a site planner, who can legally only require -- and I'll wrap up -- the applicant save trees over almost 8 feet wide. Few of the trees are that size. Hence our second condition for approval. We ask you approve a site plan which allows to comment before approval and was a conditional of the restrictive covenant runs with the land. This also gave us more comfort since we found voting to recommend the zoning with these conditions that the applicant did not disclose that there was a restrictive covenant on the property. In short, please don't look at this property solely in terms of what cs allows or what the map shows. are you getting close?

That's it.

Mayor leffingwell: okay. Thanks. Council member shade has a question.

Shade: I have a question. I heard you say us, who are you refusing?

The northwest austin civic association, which is the neighborhood association over this area. mayor, I have a quick question too. I thought that they were in support of this, though.

We supported with conditions. The conditions being that all the existing trees be kept and that the site plan be approved by council. If those conditions were weren't something you could support, then we wouldn't be recommending zoning.

Mayor leffingwell: okay. Council member cole has a question if you're done. can you explain what you mean by the site plan -- I didn't understand -- what did you say, the site plan be kept?

I'm not sure -- she said site plan approved by council.

Right. site plan approved by council. i don't know if we can do that.

You have the option of doing that. It's not something you've traditionally done, but used to be the way you did it and it was part of the restrictive covenant. -- city attorney want to comment on that?

Since we have guernsey, I may let him comment on that. at one time we used to have condition of the zoning site plans and then in the late 1980s we actually put a provision in the land development code that prohibits the city council from approving zoning subject to a site plan, and that was done because of dusting issues, because in the late '80s we had passage of -- it's bn referred to as chapter 245 or 1704. Back then it was house bill 4, and that would grandfather properties in perpetuity to that site plan, and so the language was changed. In order to do that i think you'd have to remove the code to amend remove that prohibition before we could make this a condition, a condition of zoning.

May I have another question for mr. guernsey? The request that the trees be cep, I know we just passed a very comprehensive tree ordinance. Can you comment on how that would impact this case or -- well, I haven't reviewed the site plan, although there is one attached in your backup, but if you were to say to save all remaining trees, that would have to be probably done by the covenants. That may cause certain constraints to the property owner as far as laying out the site. If there's any utility work that would need to be done, that may be impacted and may cause a situation where they have to move lines in order to serve the addition. Frankly, I probably would like the applicant probably to respond because he probably knows best where the addition is going. he can do that during his rebuttal.

And that site plan is the one from '04, correct? Yeah.

Mayor leffingwell: okay. Thank you.

Thank you.

Cole: thank you. no three minutes rebuttal from the applicant.

Thank you. I'm a little confused, i will confess, on how to respond, but I'll do my best. Yes, there are restrictive covenants that guide what trees you can take out on the property. Yes, you-all did just pass a very extensive tree ordinance, and we will follow every rule that you have. You know, if we don't, we don't get approved. Basically my proposal will save trees. If you-all just turn me down tonight, I go home with the way I came. At some point if I want to build another building there the trees are going to go. This is -- it's not going to be a height problem. The way I think it's going to be, it will be the same approximate height as the buildings we have there. Across the street are these office buildings but they're on a big hill and they start out about 20 or 30 feet higher. In the candy wilson building, on the other side of it, I believe it's higher, and the bank building, which is only two stories, has a steep roof. And I deify you to -- you -- defy you - see much difference in the height. So we're very compable with the neighborhood. This is not going to add any amount of measurable traffic. If we have five cars there at one time during the day, that's a good day, and if there's ten, probably three of them are people that work there. You know, so -- I can't remember the other thing, but if we just save all the trees, it just means we -- i can't use my property, and m trying to do the best we can as far as, I like the trees and there are some good ones on the perimeter and you won't even see the building much, I don't s will be there. That's where most of the larger ones are. And so -- any other questions? We do not intend to comply with the city's rules and regulations and ordinances, and, you know, we appreciate your all acting favorably on this. are there any trees larger than 19 inches in diameter? mayor, I can't answer that, but that would be a protected tree.

Mayor leffingwell: right.

And I think there's -- i did a rough sketch several months ago of where we could do the building, and there was -- I remember back in the corner there was a large limb or a multi- -- all of our sketches are designed to leave the trees. well, so you'll have to do a tree survey when you develop this property, and you'll have to annotate all trees larger than 8 inches in diameter, and the arborist and the site planning staff will take a look at all that and devise a tree mitigation plan for any trees over 8 inches in diameter that are removed.

Right, and we -- there is a process to take care of this.

Yes, sir. Yes, sir. That's the way I understand it. all right. Any more questions? Council member morrison. you may have already explained this before, but is there -- is there a restrictive covenant on the property that has some limitations on what you can do with trees?

Yes, ma'am. and what exactly is that limitation?

If I -- I cannot tell you off the top of my head, but not removing some trees that are bigger than 8 or 9 inches, if my memory serves me correctly, so it's more strict than the city's rules on trees. But we have a very long stretch on balcones, and as I recall when we did this several years back, it's been five or six years now, the rules varied a little bit on that strip, depending on where on the strip you were, but it's like a 25 -- in general there w like a 25-foot buffer of trees on balcones, and I'm not sure that's true for the whole strip but it could vary, and you couldn't take out a tree, maybe 9 inches, could have been 8. I'm really not sure, but it was pretty restrictive, and we worked with that. That hasn't changed. That's still

there. It's no secret, it's on record, you know, on file, and that's just what we had to deal with at the time, and we would still have to deal with that.

Morrison: okay. I guess I'm finding it here. Looks like in some places, like along the balcones, no trees larger than 2 inches in trunk diameter shall be removed.

There you go. I didn't remember that. you'd better make sure you read this before you do your site --

well, I'm a long ways away from going -- you know, getting a building permit or a site plan. We were just trying to take this first step to see if we'd be able to do that.

Morrison: thank you. I do have a question for mr. guernsey also. Is there a way by making this a conditional use or something we could ensure that the site plan would go to the planning commission or staff? yes, you could make the use a conditional use. It would make the existing use nonconforming. we couldn't make a condition that if the far is over one to one? yes, you could do that. Well, we have -- and that -- that would be similar to our large retail ordinance, where if you were to build a structure for a large retail use, 100,000 square feet or more, that would require conditional use, so we could possibly say whatever the existing square footage is is permitted up to that amount, and then anything above and beyond that would require a conditional use permit. Yes, we could do that. and then it would need to go to, i guess, zap? yes, that's correct, and that would be a commission approved site plan that would be reviewed by the commission rather than staff. I'm not prepared necessarily to do that on three readings this evening. council member shade? I'm going to move to support the staff's recommendation.

Cole: second. is that on three readings? on all three readings. Readings. motion by medical shade to closing the hearing and recommend on all three readings. Seconded by coal. I'd like to ever on this as an amendment that it on on first reading and that we do this this approach that we were just talking about, and that is that that will prompt the site plan to go to zap. That way they'd be able to look at the trees and be able to accommodate the neighbors' request at least partway. It won't go to council, but it would at least go to zap. is that friendly to you? to me, the longer we've been talking about it the more I've realized there are so many conditions already on this piece of property, that I just feel like we should -- I mean, I'm sensitive, but generally the neighbors are supportive. The trees are going to be handled. I'm not very concerned the height. I appreciate the fact that you're trying to reach a compromise, but I feel like that's really putting an unusual burden on the property owner, so I guess i won't accept that you can put it as a substitute and if other agree that's fine. I'd accept it as a friendly amendment. I'd like to make it a motion, and that is to make this -- all the same restrictions but if it's over one to one far, up 1 far, it's a conditional use. And that would be on first reading. Substi substi tute motion to close the public hearing and approve on first reading only a condition that if the far 1, then it becomes a conditional use. Exceeds 1 -- 1.0. Is there a second for that substitute motion? Council member riley seconds the substitute motion. Is there any further discussion? First we'll vote on the substitute motion. All in favor of the substitute motion say aye. All opposed say no.

No.

Mayor leffingwell: no. So that fails on a vote of 4-2. 4-2 With council member morrison and council member riley voting in favor. That brings us to the main motion, which is to close the public hearing and approve on all three readings the staff recommendation. All in favor say aye.

Aye.

Mayor leffingwell: aye. All opposed say no? That passes on a vote of 5-1 with council member morrison voting no and council member spelman off the dais. thank you, mayor and council, I think that brings us to item 79, c14-2010-0026. This is for the property located at 414 thompson lane -- before you get into that, guernsey, council member riley moves to extend the meeting past 10:00. Council member cole seconds. All in favor say aye.

Aye. opposed say no. Passes. Motion passes. 00 curfew is waved. Now go ahead. thank you, mayor and council. 79, case c14-2010-0026 at 414 thompson lane. This is a zoning change request to cs-co, to change conditions of zoning on a 10.3-acre tract of land. The zoning and platting plan was to approval cs zoning with a 2,000 vehicle trip per day and removing restrictions from the prohibited use list. That would include equipment repair, services, equipment sales, kennels, laundry services and transportation terminal. The zoning -- or the applicant is agreeable with the zoning and platting commission's recommendation. The staff's recommendation was to deny the request to remove the equipment sales and equipment repair services from the prohibited list. The property is currently zoned cs-co with two vacant commercial building, an electrical company, and a single-family residence. To the north there are single-family residences, agricultural uses and a vacant mobile home. To the south is a manufactured trailer park. Single-family residences is agricultural sales and services and general retail. To the east is agricultural single-family residences, a mobile home park. Capital metro services, retail, a church, adult oriented business and a supply company, and to the west is drr and used for agricultural. I'll pause if you have any questions. jim bennett is fred shaw hoskins, who is the applicant. Questi questi ons of staff? Okay. We'll hear from the applicant represented by mr. bennett.

Mayor and council, jim bennett. I'm here on behalf of hoskins electric through hoskins, the owner, to remove some of the conditions that were originally proposed and approved in '04. At that time we didn't have any objections to those prohibited uses. However, due to the economic hoskins has had to dowize his business, and what was occupied by the four buildings he is now in one building and has been able to lease another of the buildings out so that leaves us with two vacant buildings on the property. We have a tenant that has secured lending to put a vehicle service facility at this location, and as guernsey indicated to you, as a result of that we had to refile the zoning change to amend the conditions that were originally opposed. Planning commission by unanimous vote did agree to eliminate all the conditions, save and except two, the adult oriented business and the vehicle storage facility. As you can see from the aerial photograph and just to orient you a little, this is at 183 and thompson lane, which is adjacent to thompson run is adjacent to cahahan general store and facility. It is a mirage of uses, commercial, industrial and residential as well as agricultural. Another deciding factor is that this area is in the airport overlay zone, which does not allow any new residential or redeveloped residential uses in the overlays, I think it's overlay 2 of the airport overlay zone. Based on that there was not any opposition to the hearing and the public hearing before the planning commission, and we would request that council consider these facts

and to recommend to approve the zoning on all three readings. We're available should you have any questions. Questions of the applicant? There are no speakers signed up on this item. So council? Council member morrison. I'd like to move approval of planning commission recommendation on all three readings.

Cole: second. council member morrison moves to close the public hearing and approve the planning commission -- excuse me, zoning and platting commission on all three readings, seconded by council member shade. Discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 6-0, council member spelman off the dais. thank you, mayor and council, that brings us to the last three zoning and neighborhood plan-related items on your agenda. This would through 87, 88 and 89 on your agenda, which deal with the north lamar neighborhood planning area and also the jordan acres neighborhood planning area. At this time I'm going to turn over our presentation to mark walters and jacob browning and they're going to walk through what the neighborhood planning area is. You haven't had one in a while. So given the late hour this might be sort of apropos, i guess, and so I'll turn over to jacob and he'll dive right into the neighborhood planning area. so, guernsey, 86 is still out there too. that's correct, and they're going to present those.

Good evening, mayor and council members. My name is jacob browning with the planning and development review department. I'm here with mark walters to present the north lamar combined neighborhood plan and its associated rezonings. Before we start I want to make aware that the late backup is being passed out on your dais for a your review and the backup includes letters we've received in the past few weeks regarding tract 32 and also your motion sheet. guernsey said, I will be presenting -- in case np-2010-0026, the north lamar combined neighborhood c 20-2010-003, the code amendment to reclassify north lamar boulevard highway 183 and braker as a core transit corridor and that's agenda item no. 87. Case c14-2010-0048, north lamar neighborhood zoning dist c14-2010-0049, george and acres neighborhood planning and that's 89. I'll give you a brief synopsis of what I'll be talking about tonight. First I'll provide an overview of the planning area, including boundaries and demographic and social trends. Next I will provide an insight in the planning process in the planning area. Thirdly I will go into further detail regarding the neighborhood plan a and its contents and goals and over all themes. And fourthly I'll hand it over to mark and he can talk about the zonings and related code amendment to the neighborhood plan. First the planning area background. The north lamar neighborhood is comprised of two neighborhood planning neighbors, north lamar in the north and george and acres to the south, both located in the north center portion of the city urban core. Surrounded by lamar boulevard to the north, brake layer to the north, u.s. 183 to the east. It's bisected by rundberg lane and is approximately 1300 acres in size. Between 1990 and 2000 the planning area had a population growth rate of about 37%. Pretty much on par with that of the city of austin, which was at 41%. Also within the past two decades the planning area has become a minority majority area where no racial or ethnic group has a majority of the area's population as seen in the pie chart here. The planning area earned the status of being the immigrant gateway, having a large share of foreign born immigrants, especially from latin america. In 2000 nearly 50% of the area's population was made up of those from hispanic or latino origins. In the past



decade the planning area has also become an asian, commercial and cultural center for the austin community. With the increase in population, especially that of foreign born residents, household size has increased in the planning area. 35 people living in each occupied housing unit to 64 people, an increase of nearly 12 1/2%. For much of the same time period housing construction has stagnated in the planning area, so as household size rises in the area where little development has occurred, the existing housing has become overcrowded. Another trend coming from this decade is the amount of people living in rental house, including those in single-family and multi-family units. Of the nearly 5700 occupied 4% were owner occupied, while 6% were occupied by renters. Much of the planning area has been affected by crime in recent years. For each year in the five-year period between two four and 2008 an average of nearly 3100 crimes occurred in the planning area. The dots on each of these maps represent the incidence of crimes in the planning area. The larger dots represent areas with more occurrences of crime. However, in recent years area residents and organizations have sponsored several marches and events to drive off the criminals that have affected the safety and security of the planning area. Next we'll be talking about the planning process. In decemr 2006 the city council initiated the planning process in the north lamar combined planning neighborhood area and in 2007 november we held our kickoff meeting, and between december 2007 and 2008 we had our meetings, and we discussed items such as transportation, parks and trees, community health and things like that. In january -- oops, excuse me. January 2009 we held our mid process open house, and between february 2009 and 2010 we held our land use and zoning workshops and on march 6 of this year we held our final open house. There was a total of 28 public hetion between noveer 2007 and march 2010 and an average of 18 stakeholders participated in each meeting. Participants for these meetings included area homeowners, rentders, property owners and -- renters, property owners and business oarns. Planning staff utilized numerous outreach strategies to encourage continued involvement in the process for north lamar, including surveys, mailed notices, pamphlets given out at neighborhood events and some postcards and I just want to note that all materials were available in both english and in spanish. Planning and development review department staff received assistance from many different departments and outside organizations, including the austin parks and recreation department, watershed protection, texas transportation institute, txdot, capital metro and the development of the neighborhood plan. Moving on to the plan itself, in the initial phases of the planning process five areas were identified in which the plan would address. As the goals workshop held in 2008, stakeholders stated goals for each area. The five topics formed the core of the neighborhood plan each becoming a topical contents. The topics are quality of life, crime, code enforcement and community health, parks and trees, transportation, that both includes pedestrian and vehicular transportation, infrastructure and land use. Now, I'm just going to go goal by goal and present the themes for each goal. And the first goal is quality of life. On north lamar combining neighborhood area shall be safe and healthy that promotes and prefers the quality of life for both residents and business owners. Themes coming from the quality of life chapter include including and ensuring public safety, encouraging proper maintain maintenance of properties, preserve affordability of existing housing, acknowledging the area's cultural diversity, promoting a healthy environment, encouraging a sustainable life stiem -- sorry, that's the last thing for the quality of life. I'm having troubles here. So parks and trees goal, achieve and maintain healthy functional and quality safe, parks and green spaces that provide opportunities for cultural interactions within the north lamar combined neighborhood planning area. The parks and trees chapter themes include improving existing park facilities, locating a new park within the planning area, excuse me, increasing -- and increasing the north lamar combined neighborhood area's tree canopy. And

also to protect the existing tree canopy within the planning area. Moving on to transportation, pedestrians, motorists, transit users, bicyclists and impaired users should be able to travel efficiently and safely throughout the north lamar neighborhood area and throughout the rest of the city. The first theme from this chapter is to improve the sidewalk and bicycle transportation network, ensuring the safety of those traveling in or through the planning area, improving traffic flow along the north lamar boulevard, travel should be free of barriers, both psychological and physical, and transit options should be accessible to everyone. The next chapter is infrastructure, and the goal is to develop infrastructure within the north lamar combined neighborhood planning area that upholds the safety and health of residents and property and business owners. Themes coming from this chapter include improving the curb and gutter infrastructure, and increasing the safety of the planning area. And finally land use. We want to create a well-balanced pattern by assigning appropriate land uses to properties. I want to note the land use centered around those areas that stakeholders wish to change or not change. As you'll see most of the future land use changes occur on the periphery of the planning area along its major corridors. The first theme coming from the land use chapter is to preserve the residential area of the planning area. On the next few slides I want to juxtapose the current land use map with the future to show how the future represents the plan's themes for this chapter, so this is the map from 2008 showing the residential core of the neighborhood. Juxtapose that with the future land use map for the area, and you can see that we preserve most of the residential core of the area. Also stakeholders wish to provide a variety of housing options on vacant land. Currently there are three large undeveloped vacant tracts located on or along Rundberg Lane, and stakeholders wish to provide a variety of housing options on these properties, especially those offering home ownership opportunities to further stabilize the area in the future. I should note here that the residential infill and urban options will be applied to all three of these tracts. The next theme coming from land use is to create a neighborhood mixed use district along Ferguson Drive. Currently on the southern side of Ferguson Drive there are a mixture of commercial uses, office uses, single-family and undeveloped tracts, and we propose that a neighborhood mixed use corridor be included on the southern side of Ferguson Drive, possibly associated with the Chinatown shopping center across the way. The next theme is to retain the largely commercial character of I-35. Many of the properties along the I-35 corridor are currently used commercially, tire shops, hotels and service stations included. Because this is a highly trafficked interstate stakeholders felt it necessary to retain the commercial nature of this roadway. Next is to preserve the commercial and industrial uses in the northern portion of the planning area. On the northern portion of the planning area is currently characterized by commercial and light industrial uses and is anchored by the Golf Smith manufacturing plant and that's the large purple rectangular area in the middle. The future land use is the hub of commercial activities for both the planning area and the region at large. Next we would like to create a mixed use district near highway 183 and I-35 intersection. And currently this area near the intersection of these two freeways currently contains a mixture of commercial and residential uses and because of that mixture of uses lends themselves easily to the mixed use district as seen here on the future land use map. The last theme coming from this land use chapter is to make north lamar boulevard a mixed use corridor and currently north lamar boulevard is a commercial thoroughfare characterized by various commercial and light industrial uses, large parking lots and little pedestrian infrastructure. They want to create a corridor on north lamar boulevard to enhance identity and character, friendly amenities such as sidewalks and trees, mixed use buildings fronting the street and enliven the current character of north lamar boulevard. The current uses along north lamar boulevard are commercial, and the future land use map designates most of the properties along in this thoroughfare as

mixed use. I just want to juxtapose the larger planning area current land uses with the future land uses and this is the north lamar planning area. Moving south to the george and acres, the land use there, to the future land use. And just to note that the future land use map was -- depicts previously discussed themes and was derived from the various land use workshops held during the planning process in the north lamar combined planning area. Just one last look at the combined flum before I hand it over to mark in the zoning cases. Thank you.

Good evening, mayor, mayor pro tem, council, I'm mark walters with the city of austin's planning and redevelopment department. I'll be going over the zoning recommendations quite quickly. First part I'll talk about the areas with proposed changes, talk about the issues of nonconforming uses that could arise from our recommendations, the infill options being remedied, the application of vertical mixed use and the status of existing conditional overlays. First part I'd like to talk about, we're recommending changes in zoning algebraicker lane just to the west algebraicker lane to the west of i-35. Half of that we're recommending from gr with limits on the automobile oriented uses, washing sales and repair and then further west from there across from single-family houses recommending neighborhood commercial. At this point if you're not familiar, braker lane is a fairly wide five lane roadway. Ferguson drive, which is across from the chinatown shopping center and a future mixed use residential area is seen in that I shaped partial. We're recommending to retain the cs zoning that's there, but to allow for mixed use and to apply a fairly strict conditional overlay to limit the more industrial type uses. As you can see this backs up to people's back yards and having those types of intensive using along folks' backyard is the way to kind of temper there. Next we talk about rundberg lane. Currently it's a mixture of different types of single-family and commercial and office zoning and we're recommending community retail lr as well as the vertical mixed use. Here are the two biggest tracts that we have in the planning area, tract 28 and tract 32. Tract 28 is approximately 25 acres. We're recommending that the part that fronts on to -- currently it's zoned a mixture of single-family. We would like to recommend that the part that fronts along rundberg to have lr zoning, and the back part to have some type of -- to get single-family 3 zoning as well as allow several I hope fill options to allow for small lot single-family or a mix of different residential uses. The other tract is tract 32. The planning commission recommended that it go to sf-6 for the -- sf-6 mp for the large portion of it and lr for the portion that ponundberg lane. We're recommending some conditional overlays to apply across lamar boulevard and that would make conditional uses of auto washing repair, sales, hotel/motel and drive through accessory use. Just to give you a perspective, in the two square miles that comprise the combined planning area there's almost 17 motels and hotels in that area. While some are very good neighbors, some have proven not to be such great neighbors to the community. Also along i-35, picking up on that same theme of a fair share of hotels in the neighborhood, we're recommending that hotel/motel use along i-35 be conditional. And with making these uses conditional, blanket along i-35 and for lamar, it creates nonconforming uses that all existing legally permitted automobile sales and washing would become nonconforming but they would be able to improve 20% annually -- able to improve 20% of their value every year in perpetuity. So they would be allowed to improve that -- they could not make improvement that would increase their parking above 120% of what is allowed by the code. We're recommending several infill options to allow for home ownership, as you saw on jacob's part of the presentation, about 18% of the whole area, the residential units are owned by the people who live there, with 81% of all the units being rental, trying to promote some home ownership in an area to hopefully create a little more stability in an area that is not as stable as it could be, we're recommending residential

infill on those large tracts off of Rundberg, which allows for mix of house, urban which allows for single-family lots on small lots, and small lots would make lots that are legally planned. We're planning vertical mixed use for North Lamar and Rundberg. Unless changed by the planning commission recommendation, we're recommending all conditional overlays be carried forward in the zoning ordinance. We're also -- we also have an associated code amendment, to designate North Lamar between 183 and West Braker Lane as a western -- that would improve the quality of sidewalks and new development in the area. Are there any questions about the neighborhood plan and zoning, Jacob and I are here to answer any questions. If not that's the end of staff's presentation.

Council member Shade? I was just going to say that I know Jacob made reference to this because there were some conversations going on with Kleman and the neighbors. This is actually going to be motion 10, but in the interest of trying -- I was going to want to make that motion. I was trying to give the heads up and I thought we might be able to go to that motion first to allow those people to leave since they've been waiting so long. I don't know if that's appropriate or not. Kleman still here and some of the neighbors --

I do have a question about the neighborhood plan in general before we get to the zoning, if you don't mind.

No, of course, go right ahead. I'm not sure which one this is for. I appreciate this plan. Looks like it's a great job. I know it's four years, you said 2006 it started, so that's --

in 2007 but it was initiated by council in '06.

So it's a long haul and it's a really important area of our town that's got huge challenges, and we need to keep in mind that this isn't just about land use. You were talking about the quality of life issues, the transportation issues and I think parks and open space, all of which are very important. We've had a lot of talk about crime today, and I think that it's obviously one of the big issues for the folks up in that area, and I know that that was addressed to some degree in the neighborhood plan, and I understand that there are some very specific recommendations regarding how we can do a better job with the neighbors up there and help the crime situation. Some of the recommendations are, for instance, to increase APD patrols through the area, to study the feasibility of reinstating the APD violent crime task force and encouraging area residents to report all criminal kits. Kits -- activities, 5, 6 and 7. My question is do we have next steps for implementing those or are there things we as council can do to really make sure we carry these forward after, you know, three years of work and knowing the huge need and all the involvement from the public?

That's a good question. I know that when we began the process, we first focused on the crime and code enforcement, which were really right there in everybody's daily lives and affecting it. What council can do, I think we're in the process of forming a contact team for this area, and it's a small but very -- it's a small but very dedicated group and I think that they need to sit down and come up with some items that they can bring forward and now that we have an implementation portion in our department, that that -- maybe amend those items as necessary to come up with more specific approaches, but I think that the neighborhoods collectively in that part of North Austin are working together to address these. There is a

coalition of neighborhoods and I think that supporting their actions I think would be the one thing I think that I can think of at this time that council could do to help support them.

Morrison: okay. Well, I appreciate that and I know that there's a lot of very active neighbors, you know, knowing that it's up to the community really in large part. I think it's important for all of us to keep in mind that neighborhoods are not just about zoning. But I appreciate that.

Mayor leffingwell: okay. So council, we're considering 86, 87, 88, 89 all together at this point in time. In just a minute we're going to start going through the motion sheet motion by motion, working with staff going through this. Before we start that, i understand that we're going to throw out the sign-up sheet, and we will hear from robert atkinson. Robert atkinson here, who has time donated by mona knoll, and we'll also hear -- that will be six minutes and we'll hear three minutes from lynn gailbrake, and then we'll start our way through the motion sheet and we'll have -- when we get to motion 10, we may have a speaker on that, and when we get to motion 11, we may have a speaker on that. Fred gierna. So that's the game plan at this point. If anybody disagrees with that let me know. mayor, also i can make the motion sheet much shorter. The pulled items on here were anticipation of people coming up and speaking about them. We had indications that they may come up. As far as I'm aware, not everybody -- people have not shown up to talk about each of these actions, so in the interest of brevity we can strike those that -- if it's council's desire, that doesn't have anybody here to speak on, and that could maybe speed up the motions once we have the public input -- well, these are the only speakers that we have now. That's changed. So we can just -- we can hear from these two and then start through the motion sheet, and I don't think we're going to have any speakers except for item 11, and then on item 12 we probably won't have any speakers unless somebody has a question. Pardon? mayor, when you left briefly I gave the heads up that after -- and jacob alluded to it when he first started that on item 10, that the neighbors kleman are asking for a postponement and we might as well just do that one first. They could leave is what i was suggesting. But I don't feel that strongly because it looks kleman is left at this point. I was trying to be sensitive to that point. Thank you to council member morrison for bringing tup. I was anxious to get to the -- thanks to you on that work, so I echo those comments. Thank you. so can we go directly to motion 10 right now? All right. So is there -- council member shade? I'm going to make a motion we take no action on 32, pulled from the discussion -- and direct the property owner and neighbors to continue to meet and try to come to an agreement so that we can come back on -- return on june 24 for that item. Thank you. the items in motion 10 will be postponed until june 24 and that's a motion by council member shade. Second by the mayor pro tem. Any discussion? All in favor of that say aye.

Mayor leffingwell: aye.

Aye. If you're opposed, say no. So that passes on a vote of 6-0 with council mber spelman off the dais. So now we'll go to our speakers on all items, beginning with robert atkinson. With mona knoll donating time, and you will have six minutes.

Oh, good evening, council, mayor. set the clock for six minutes, please. okay, go ahead.

Good evening, council, mayor. My name is Robert Atkinson. I was a young man of 22 when I bought my house on the Holiday Court, and I've still got it. I've done it the hard way. In two years I'll have my mortgage paid off. Three years ago when this first initiated was the first time we had either neighborhood associations and then the letters came out for this process. I made a decision not to join the neighborhood associations and stay with this, and I'm still staying with it, and God willing I'll be on the contact team when that starts for at least a year, as if somebody wants it.

[Laughter] We have done a lot of work. Jacob's numbers said 18 on average at our meetings. What I can tell you is there were more at some of the crime meetings, the police meetings. There were less at the tree meetings. But I can promise you that when we went through the zoning of the plats from 183 to Braker and everything in between, every property that we touched on, and I do -- I mean, not just, oh, yeah, I sort of know that. We had the neighbors that knew that property. We had a few property owners show up that were unhappy with what they thought we were doing until they showed up and found out we were doing exactly what they needed. I think we did a pretty good job. We do have problems. Years ago the New York Times coined the phrase -- we have areas of our neighborhood that are disaster and I can promise you that they weren't that way prior to 1984. Business hasn't always been our best friend. My neighborhood was built by Doyle Wilson, who immediately went bankrupt as soon as he finished our neighborhoods, because he had grand promises what he was going to do, but he went bankrupt. I thought of calling him after the meeting last week only to find out he had gone bankrupt again and reopened as a new name again. So we've had businesses, Wal-Mart, Sam's, that moved took over the property for internet grocery sales, that didn't work, which is now our Crockett Center, where you can have bare knuckle fights and gun shows and from city employees I know personally, you don't want to go around the back of the Crockett Center, even in the daytime, because of the illegal activities. We just had Golden Corral move out, out of the blue. They're relocating three miles up but the employees used to live right behind Golden Corral and walk to it. And of all the fast food places we have on Lamar that was probably the healthiest. We had Michaels move out. We had Safeway fail of course. When he got there we had Optimist football fields, tree sales. Businesses took over those properties. We lost those fields and then the businesses went bankrupt. We have Brownie Lane, Brownie Drive Apartments, I'm sorry, which is my neighborhood. It is a disaster. It is a shame. We have 43 fourplexes owned by 31 individuals. The UT Sociology department comes and does anthropological studies in my neighborhood. I'm sorry, it -- this is 300 yards from my house if I drive, less than 100 yards to the creek, and I see Greyhound buses and UT students doing third world studies in my neighborhood. South we have Sam Rayburn, which is the same thing. In the police reports if you saw, they back that up. We have the biggest drug area in all of Austin right at the nightclub area that's now going vacant because of Hollywood video going. But I can tell you, Rundberg, North Lamar, it was a beautiful area. It was the most diverse area of all of Austin when I moved in and it stayed that way until property values rose in 1990 and the realtors did not find it feasible to sell a \$90,000 home when in West Austin they could sell \$200,000 homes. We were red lined. We were red lined, not on mortgages but the realtors red lined us, and we became a home of renters. I don't know who owns most of -- I do know who owns some of the homes, but the rental homes I watched people blow in out of the blue. We have duplexes, masters and diamond back Georgia, and we have the fourplexes. We came up with a good plan, and -- but we could use some help. The police were doing traffic stops on Masterson, Diamond Back and Georgia, they had to stop because every fourth traffic stop instituted a warrant/arrest, and the police have a hard time when ever -- they have a hard time

staying that busy. So the traffic stops. Do not happen in my neighborhood anymore because it created work. We had bike patrols. They're gone. We try and get inspectors to come and we hear it's complaint driven. There's only two of us here, but I do know at other meetings people would say how many complaints do we have to make. For a car -- when a car breaks in our neighbors it goes to the city street or a yard. We've asked for a yard ordinance but -- that's my time tonight, council, and i do appreciate it. I wish you'd pass the plan and we'll see what we can do with it and what you-all can do to help us. Thank you. thank you, robert. We'll hear from lynn galbrick. And, lynn, you have three minutes.

Thank you. My name is lynn gal bring and I'm a homeowner in george and acres. I'm here to support the plan. I know in one of the jacob's pictures of the first meeting my hair was short, so -- it was a long two years, a lot of diligent residents, business owners, local clergy, other community members got together relentlessly every month with diligent city staff, worked our way through a lot of issues, discussed everything, looked at a tremendous amount of research which we asked the city to do, the staff, and they did. And we made -- we tried really hard to make our decisions on the basis of facts and information and well thought out scenarios as opposed to strictly emotional responses, which can happen in austin. We scrutinized the whole place, put it all back together in this plan and i am very pleased with the product. I think that we did a good job. Obviously we can't just find the resources immediately to address all these things, so 's pretty much a vision at this point, but I did appreciate council member morrison's comments about the crime, because that was one of the overriding concerns for the entire time, the energy it takes to drive that level of attention to get a front page in the newspaper and then get police attention is impossible to sustain. So we didn't put it in the plan, but I was always advocating for a police substation right on rundberg. It's in the center of the neighborhood. If there's a continual 24/7 presence and apd is living there with us, I suspect that might be quite helpful. I don't know what it costs to do that, what sort of bond we need to pass, but if you're looking for something to do, you can put that at the top. The last thing I'd like to say is commend the city staff for how hard they worked with us. They were incredibly patient with us. They answered the same questions over and over. They kept us going when we really just wanted to fight with each other and then go home. They taught us a great deal about how land use and community and planning structures that go into place all can work together globally to have an impact ten years from now and 20 years from now, and we tried to work that into the plan. So I just would to encourage you to be very proud of your city staff who did a great job. That's all I have to say. Thank you for listening and I appreciated your services to the city of austin. thank you for all the kind words, lynn. So just to make sure we're covered, I'm going to read off everybody that signed up on these items, 86, 87, 88 and 89, make sure you don't want to speak. Robert kleman? Not here. Dina artiz? Laura reams? Laura is not here? Shane chin? Is not here. Fred bierna. I understand you want to defer until we address item -- or motion no. 11. Is there anyone else wishing to speak on these items 86 through 89? All right. Staff, we're ready to head through this motion sheet.

Should I close the public hearing at this time or --

no.

Okay. Well, I'm going to go through this, and since -- I'm going to make this a lot shorter so we only have one discussion item at this point, so I can go through this really quickly. Okay, the first motion -- on first

reading recommend approval of the north lamar combined neighborhood plan as recommended by the planning commission except for tract because you've already pulled tract 32. That's the motion. If you have any questions I'll be happy to answer them at this time. all right. 1 is to approve the planning commission recommendation except for tracts 32 and 125a.

Yes. motion by council member morrison, second by the mayor pro tem. Further discussion? And this is first reading only. Close the public hearing and approve on first reading only this motion no. 1. All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed? Passes on a vote of 6-0 with council member spelman off the dais.

The second motion, on first reading, recommend approval of the rezonings for the north lamar neighborhood plan combining district as recommended by the planning commission, except for tract 32. i heard somebody move -- may pro tem moves approval of the planning commission recommendation and close the public hearing on motion no. 2, except for tract 32. Is there a second for that? Second, council member shade. Discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed say no? Passes on a vote of 6-0, council member spelman off the dais. Motion 3.

Third motion on first reading, recommend approval of the georgian acres remed combined, as recommended by the planning commission as for tract 125 a. motion 3, council member morrison moves to close the hearing -- close the public hearing and approve the planning commission recommendation except for tract 125a on first reading only. Is there a second? Council member riley seconds. Discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no? Passes on a vote of 6-0, council member spelman off the dais.

Motion 4, agenda item 87. On first reeled reading approve an amendment to article 5, figure 1, subchapter e of the land development code to add north lamar boulevard from west anderson lane, west 183 to -- braker lane, to the list of core planning corridors as recommended by the planning commission. mayor pro tem moves to approve the 4, close the public hearing and approve on first reading. Second by council member shade. Discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 6-0, council member spelman off the dais. Motion 5.



Agenda item 88, on first reading approve the urban home and infill uses for tract 27 as recommended by the planning commission. And for tract 28. Not on there, but needs to be put on there. For tracts 27 and 28. council member -- council member --

[laughter] council member morrison moves to close the public hearing and approve the items in motion 5 on first reading only, with the addition of tract 28. All in favor -- seconded by the mayor pro tem.

Discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 6-0 with council member spelman off the dais. No. 6.

Agenda items 88 and 89, on first reading approve the impervious cover and parking placement restrictions, front porch setback for the north lamar and georgian acres planning areas as recommended by the planning commission. all right. Motion on motion no. 6. Council member morrison moves to close the public hearing and approve on first reading only the planning commission recommendation. Is there a second?

Second. council member cole. Discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Any opposed say no. Passes on a vote of 6-0 with council member spelman off the dais.

The next agenda item -- next motion will be motion 11, that would be on page 7 and that relat tract 125a. The land is currently zoned commercial services, conditional overlay, cs-co, and the initial planning commission recommendation is to approve the existing conditional overlay that's spelled out and all those lines to the right-hand side of the paper -- of the page. vierna came in and spoke with staff friday last and he got the notice in the mail that this was moving forward, and he was looking to see if at this time it would be possible to lessen the severity of the conditional overlay that governors uses on his -- governors uses on his proot. It's a five acre tract off i-35 on east powell lane. We met with him, jerry rest rust er and myself about the overlay, where it starts conditional uses which is about the lower middle of the second column, currently all of these uses are prohibited, and we talked with them and discussed that we would think that the ones that we have as conditional and then where it says previously prohibited uses that would become allowed, that the staff could support that.

[One moment, please, for ]

## **End of Council Session Closed Caption Log**